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COMBATTING ILLICIT DRUGS

DEA and ICE Interagency Agreement Has Helped to Ensure Better Coordination of Drug Investigations

U.S. Government Accountability Office

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ACCOUNTABILITY ★ INTEGRITY ★ RELIABILITY

Why GAO Did This Study

The 2010 National Drug Threat Assessment stated that the availability of illicit drugs is increasing. The Drug Enforcement Administration (DEA), in the Department of Justice (DOJ), works with Immigration and Customs Enforcement (ICE), within the Department of Homeland Security (DHS), to carry out drug enforcement efforts. DEA and ICE signed a 2009 Interagency Agreement (Agreement) that outlined the mechanisms to provide ICE with authority to investigate violations of controlled substances laws (i.e., cross-designation). The Agreement also required DEA and ICE to deconflict (e.g., coordinate to ensure officer safety and prevent duplicative work) counternarcotics investigations, among other things. GAO was asked to assess the Agreement's implementation. This report addresses the extent to which DEA and ICE have taken actions (1) to implement the Agreement's cross-designation, deconfliction, and information-sharing provisions and (2) to monitor implementation of the Agreement and make needed adjustments. GAO analyzed documents such as the 2009 Agreement, related interagency agreements, and directives to field offices. GAO also interviewed DEA and ICE Headquarters officials as well as management officials and first line supervisors in 8 of the 21 DEA and 8 of 26 ICE field offices, based on geographic dispersion. Though not generalizable to all DEA and ICE offices, the interviews provided insights.

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What GAO Found

DEA and ICE have taken actions to fully implement the cross-designation and deconfliction provisions of the Agreement, and are finalizing efforts to complete the information-sharing provisions. The Agreement allows ICE to select an unlimited number of agents for cross-designation consideration by DEA. The agencies have implemented these cross-designation provisions through a revised process that (1) elevated the levels at which requests are exchanged between the agencies and (2) consolidated multiple requests into one list of ICE agents. This new process is more streamlined and has resulted in enhanced flexibility in maximizing investigative resources, according to ICE officials. Also, DEA and ICE implemented local deconfliction protocols and used a variety of mechanisms (e.g., local deconfliction centers) to deconflict investigations. Further, in May 2011 DEA and ICE convened the Headquarters Review Team (HRT), comprised of senior managers from both agencies, who are, among other things, to resolve deconfliction and coordination issues that cannot be resolved at lower levels because they require management decisions. DEA and ICE headquarters and field office management officials GAO interviewed generally reported that the implementation of the Agreement and local deconfliction protocols had generally improved deconfliction by (1) ensuring officer safety and (2) preventing one agency's law enforcement activity from compromising the other agency's ongoing investigation. ICE has also partially implemented the Agreement's information-sharing provisions by sharing required data with two DOJ organizations that target drug trafficking organizations, and taking steps to share its drug-related data with a DEA organization focused on disrupting drug trafficking by fall 2011.

DEA and ICE have conducted ongoing monitoring of the Agreement's implementation through established processes (e.g., supervisory chains of command) and according to officials from these agencies, the HRT did not identify any systemic issues. Specifically, DEA and ICE headquarters officials routinely coordinated with each other and their respective field offices to monitor the Agreement's implementation. DEA and ICE headquarters officials also said that the May 2011 meeting of the HRT, which is to periodically review the Agreement's implementation, constituted a review of the Agreement and affirmed that there were no overarching or systemic issues of coordination or deconfliction requiring headquarters-level intervention.

DEA and ICE provided technical comments, which GAO incorporated as appropriate.

Contents

Letter		1
	Background	7
	DEA and ICE Have Taken Actions to Implement Cross-Designation, Information-Sharing, and Deconfliction Provisions of the 2009 Agreement	11
	DEA and ICE Have Primarily Used Established Processes to Monitor the Agreement, and the Headquarters Review Team Did Not Identify Any Systemic Issues	32
	Agency Comments and Our Evaluation	37
Appendix I	Objectives, Scope, and Methodology	39
Appendix II	Local Deconfliction Protocols, Deconfliction Mechanisms, Additional Factors Affecting Deconfliction, and Incentives for Joint Investigations	45
Appendix III	Training on the 2009 Agreement and Local Deconfliction Protocols	49
Appendix IV	Department of Homeland Security Agency Comments	51
Appendix V	GAO Contact and Staff Acknowledgments	52
Tables		
	Table 1: ICE Actions to Implement the Cross-designation Provisions	12
	Table 2: ICE Actions to Implement the Fusion Center, Special Operations Division, and El Paso Intelligence Center Provisions	18
	Table 3: DEA and ICE Actions to Implement the Provisions of the 2009 Interagency Agreement on the Two-Part Deconfliction Process	23
	Table 4: Geographic Coverage of the Local Deconfliction Protocols for the Associated 8 DEA and 8 ICE Offices Selected	42

Table 5: Twenty-Eight Local Deconfliction Protocols and Associated DEA and ICE Offices	45
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Figures

Figure 1: Map of DEA Domestic Field Divisions and ICE SAC Field Offices	8
Figure 2: Process Used to Request and Approve Cross-Designation Requests under the 2009 Agreement	14

Abbreviations

2009 Agreement	2009 Interagency Cooperation Agreement
ASAC	Assistant Special Agent in Charge
DARTS	DEA Analysis and Response Tracking System
DEA	Drug Enforcement Administration
DHS	Department of Homeland Security
DICE	DEA Internet Connectivity Endeavor
DOJ	Department of Justice
HIDTA	High Intensity Drug Trafficking Area
HRT	Headquarters Review Team
HSI	Homeland Security Investigations
ICE	Immigration and Customs Enforcement
OCDETF	Organized Crime Drug Enforcement Task Force
RAC	Resident Agent in Charge
SAC	Special Agent in Charge

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United States Government Accountability Office
Washington, DC 20548

July 28, 2011

The Honorable Bennie G. Thompson
Ranking Member
Committee on Homeland Security
United States House of Representatives

The Honorable Robert C. Scott
Ranking Member
Subcommittee on Crime, Terrorism, and Homeland Security
Committee on Judiciary
United States House of Representative

According to the 2010 National Drug Threat Assessment, overall, the availability of illicit drugs in the United States is increasing, as drug trafficking organizations successfully move several thousand tons of cocaine, methamphetamine, marijuana, heroin, and ecstasy into the country annually. The report further states that trafficking and abuse of drugs affect nearly all aspects of life in the United States, with an estimated economic cost of nearly \$215 billion, an overburdened justice system, a strained healthcare system, lost productivity, and environmental destruction.¹ The Drug Enforcement Administration (DEA), a component of the U.S. Department of Justice (DOJ), works with U.S. Immigration and Customs Enforcement (ICE), a component of the Department of Homeland Security (DHS), to carry out drug enforcement efforts.²

DOJ Reorganization Plan No. 2 and Executive Order 11727 created DEA in 1973, as a single, comprehensive federal agency to lead U.S. efforts against illicit drug trafficking, domestically and internationally. These directives also authorized the Attorney General, through DEA, to

¹U.S. Department of Justice National Drug Intelligence Center, *National Drug Threat Assessment* (Johnston, Pa: February 2010).

²The Homeland Security Act of 2002 transferred U.S. Customs and the U.S. Immigration and Naturalization Service, with the exception of certain functions, to the newly created DHS. Pub. L. No. 107-296, §§ 403, 412, 441, 451(b), 462, 116 Stat. 2135, 2178, 2179-2180, 2192, 2196, 2202-2205 (2002). DHS established ICE by combining the criminal investigators from the U.S. Customs Service (Customs) and the criminal investigators from the Immigration and Naturalization Service, which had been a component of DOJ. The remaining elements of Customs and the Immigration and Naturalization Service were reorganized into, among other agencies, U.S. Customs and Border Protection. ICE was established in March 2003.

coordinate the enforcement of U.S. drug laws among all executive branch departments and agencies, requiring those agencies to assist DEA on drug enforcement efforts when requested.³ While Reorganization Plan No. 2 was intended to clarify counternarcotics roles and reduce conflicts between DEA and Customs (ICE's predecessor agency), disputes continued related to, among other things, Customs' drug enforcement jurisdiction. To address these disputes, DOJ's Office of Legal Counsel stated in a 1986 memorandum that Customs did not have independent authority to carry out drug investigations. However, according to the Office, Customs agents may participate in drug investigations, per DOJ's authorization of DEA to "cross-designate" federal law enforcement officers to undertake drug investigations under DEA's supervision.⁴ A 1994 interagency agreement between DEA and Customs set forth policies and procedures by which DEA would cross-designate Customs agents to enforce the controlled substances laws contained in Title 21 of the United States Code (Title 21 authority). Upon the creation of DHS, ICE became a party to the DEA and Customs interagency agreement. The 1994 Agreement specifically restricted cross-designated Customs agents, and subsequently ICE agents, to investigating individuals and organizations involved in the smuggling of controlled substances across U.S. international borders or through ports of entry. It also prohibited Customs from using Title 21 authority to perform domestic or nonsmuggling counternarcotics investigations.⁵

In March 2009, we reported on, among other things, DEA's partnerships with ICE and the process used to cross designate ICE agents to conduct

³Executive Order No. 11727 appears at 38 *Fed. Reg.* 18357 (1973) and Reorganization Plan No. 2 of 1973, as amended by Pub. L. No. 93-253, 88 Stat. 50 (1974), is reprinted in 5 U.S.C. app. 1, along with the accompanying President's Message to Congress.

⁴DOJ's Office of Legal Counsel is responsible for addressing questions of legal authority among executive branch agencies. Department of Justice, Office of Legal Counsel, Memorandum for the Deputy Attorney General, "United States Customs Service Jurisdiction" (June 3, 1986); Department of Justice, Office of Legal Counsel, Memorandum for Joseph R. Davis, Chief Counsel, DEA, "Authority of the United States Customs Service to Participate in Law Enforcement Efforts Against Drug Violators" (June 11, 1985); and 28 C.F.R. subpart R, app., § 11. Per 28 C.F.R. subpart R, app., § 11 and Executive Order No. 11727 (1973) and Reorganization Plan No. 2 of 1973, the authority of the Attorney General to cross designate federal law enforcement officers to enforce Title 21 was delegated to the DEA Administrator.

⁵"Memorandum of Understanding Between the Drug Enforcement Administration and the United States Customs Service to Implement Title 21 Cross-Designation Policies and Procedures," 1994.

counternarcotics investigations.⁶ Specifically, we reported that the 1994 interagency agreement, which predated the formation of DHS, coupled with long-standing jurisdictional disputes involving ICE's drug enforcement role and DEA's oversight of ICE's drug-related investigations, had led to conflicts between the two agencies and these conflicts remained unresolved. Moreover, we reported that the cross-designation process was inefficient and had resulted in fewer agents being available to conduct counternarcotics investigations. We also reported that ICE was not sharing all of its sensitive drug-related data with the Special Operations Division within DEA and not fully participating in the Organized Crime Drug Enforcement Task Force (OCDETF) Fusion Center.⁷ As a result, these entities were not as effective as they might have been.

To further enhance interagency collaboration in combatting narcotics trafficking, we recommended, among other things, that the Attorney General and the Secretary of Homeland Security jointly and expeditiously (1) develop a new interagency agreement to clarify their respective departments' counternarcotics roles and responsibilities, particularly those of DEA and ICE, and provide efficient procedures for cross-designating ICE agents to conduct counternarcotics investigations; and (2) develop processes for periodically monitoring the implementation of the new interagency agreement, and make any needed adjustments. We also recommended that the Secretary of Homeland Security direct ICE to participate in the Fusion Center and ensure that ICE fully responded. In June 2009, DEA and ICE signed a new interagency agreement that included provisions for how DEA and ICE intend to interact to coordinate

⁶GAO, *Drug Control: Better Coordination with the Department of Homeland Security and an Updated Accountability Framework Can Further Enhance DEA's Efforts to Meet Post 9/11 Responsibilities*, [GAO-09-63](#) (Washington, D.C.: Mar. 20, 2009).

⁷The Special Operations Division is a DEA-led intelligence center that targets the command and control capabilities of major drug-trafficking organizations. The division collects, collates, analyzes, evaluates, and disseminates intelligence derived from worldwide multiagency elements to provide operational targeting, support, and coordination for long-term, multiagency investigations. Established in 1982 to conduct comprehensive, multilevel attacks on major drug trafficking and money laundering organizations, OCDETF combines the resources and expertise of its member federal agencies. These agencies include: DEA, ICE, and FBI, among others in cooperation with DOJ's Criminal Division, the Tax Division, and the U.S. Attorney's Offices, as well as with state and local law enforcement. The OCDETF Fusion Center collects and analyzes drug trafficking and related financial information and disseminates investigative leads.

and deconflict counternarcotics investigations⁸ and requirements related to cross-designation,⁹ information sharing,¹⁰ and deconfliction.¹¹ DOJ and DHS actions to develop processes to monitor the implementation of the new agreement and DHS actions related to ICE's participation in the Fusion Center are discussed later in this report.

You asked us to assess the status of the implementation of the 2009 Interagency Cooperation Agreement (2009 Agreement) between DEA and ICE on counternarcotics investigations. Specifically, this report addresses the following questions:

1. To what extent have DEA and ICE taken actions in their respective domestic offices to implement the provisions of the 2009 Agreement addressing the cross-designation of ICE agents to pursue counternarcotics investigations, information sharing, and deconfliction of counternarcotics investigations?
2. To what extent have DEA and ICE taken actions to monitor the implementation of the 2009 Agreement in their respective domestic offices, and make needed adjustments?

To assess the extent to which DEA and ICE have taken actions to implement the cross-designation, information-sharing, and deconfliction provisions of the 2009 Agreement, we analyzed pertinent documents such as the 2009 Agreement, related interagency agreements, directives to field offices on implementing the Agreement, policies and procedures

⁸Deconfliction is the act of searching available data to determine if multiple law enforcement agencies are investigating the same target individual, organization, communications device, or other uniquely identifiable entity and, if so, of initiating coordination amongst the interested parties to prevent duplicative work and/or possible "blue on blue" situations (i.e. personnel from two or more law enforcement agencies unwittingly encountering each other during a law enforcement operation, such as an undercover situation).

⁹Cross-designation provisions allow DEA to authorize ICE to investigate violations of the controlled substances laws of Title 21.

¹⁰Under the information-sharing provisions, ICE is to share additional information pertinent to counternarcotics investigations with the Special Operations Division.

¹¹INTERAGENCY COOPERATION AGREEMENT, Between the U.S. Drug Enforcement Administration and U.S. Immigration and Customs Enforcement Regarding Investigative Functions Related to the Controlled Substances Act (June 18, 2009).

for cross-designating ICE agents, and local deconfliction protocols.¹² Specifically, we analyzed the 2009 Agreement provisions affecting DEA and ICE domestic offices and compared DEA and ICE actions to implement these provisions with the requirements in the provisions. As agreed with your offices, we did not analyze the international provisions of the 2009 Agreement because these provisions pose unique sensitivity and law enforcement issues depending on the country or region involved. In addition, we interviewed DEA and ICE headquarters officials who were responsible for negotiating and implementing the 2009 Agreement about the development of the provisions of the Agreement and actions taken by DEA and ICE headquarters officials to implement the 2009 Agreement. We also assessed how the provisions of the 2009 Agreement addressed pertinent recommendations from our March 2009 report.¹³

Further, to obtain a field perspective on the 2009 Agreement and implementation of the provisions on cross-designation, information sharing, and deconfliction of counternarcotics investigations, we conducted interviews in 8 DEA division and 8 ICE field offices with 2 separate groups—(1) field management and (2) first-line supervisors in these offices.¹⁴ To make our selection of DEA and ICE offices, we analyzed the 28 total local deconfliction protocols, developed per the 2009 Agreement, to identify the corresponding DEA (21) and ICE (26) domestic field offices responsible for implementing each protocol. We selected 8 DEA and 8 ICE offices, responsible for implementing the same protocol, using criteria such as geographic dispersion (i.e., northern border, southern border, and interior), the number of cross-designated ICE agents, and drug trafficking trends.¹⁵ The 8 DEA and 8 ICE offices

¹²An example of a related interagency agreement is the August 2009 agreement between the OCDETF Program and ICE, which augments the information-sharing provisions of the 2009 Agreement.

¹³[GAO-09-63](#).

¹⁴DEA and ICE field management included Special Agents in Charge (SAC) and Assistant Special Agents in Charge (ASAC)/Title 21 coordinators. The SAC heads each field office and the ASAC/Title 21 coordinator is responsible for ensuring that coordination and deconfliction of counternarcotics investigations takes place. First-line supervisors included agent Group Supervisors (who supervise agents and work with their DEA or ICE counterparts on drug investigations) and Resident Agents in Charge (RAC) assigned to suboffices.

¹⁵Since DEA and ICE field offices do not directly correspond geographically, some of the field offices negotiated more than one deconfliction protocol. See table 4 in app. I for a list of protocols and areas covered in this engagement and table 5 in app. II for a list of all protocols and areas covered.

that we selected were located in San Diego, California; Houston/San Antonio, Texas; Miami, Florida; Seattle, Washington; New York City/Buffalo, New York; Detroit, Michigan; Atlanta, Georgia; and St. Louis, Missouri/St. Paul, Minnesota. (See table 4 in app. I for areas covered by each of the 8 protocols and associated DEA and ICE offices.) Among other topics, we asked field management and supervisors in these offices about their perceptions regarding any changes that had occurred due to implementation of the 2009 Agreement. We were not able to assess whether changes have actually occurred because there were no defined measures to demonstrate change and no quantitative data from the period prior to the 2009 Agreement against which to assess any changes even if measures had been identified. Because we conducted group interviews and did not select the field offices randomly, our results are not generalizable to all DEA and ICE field offices nationwide.¹⁶ However, this information allowed us to provide perspectives about the implementation of the 2009 Agreement and examples of the benefits and challenges of the Agreement.

To assess the extent to which DEA and ICE have taken actions to monitor the implementation of the 2009 Agreement, we analyzed relevant documentation. This included guidance or communications to the field from DEA and ICE headquarters describing how the implementation of the 2009 Agreement has been monitored. This also included documentation of feedback mechanisms to obtain input on how the 2009 Agreement is working. We compared actions taken to monitor the 2009 Agreement with standards of internal controls in the federal government and the monitoring process described in the 2009 Agreement.¹⁷ In addition, we interviewed DEA and ICE headquarters and field officials to ascertain actions taken to monitor and obtain feedback from the field on the implementation of the 2009 Agreement and identify any adjustments made based on the results of the monitoring process. Additional details on our scope and methodology are contained in appendix I.

¹⁶We asked DEA and ICE to identify first-line supervisors from each of the states covered under the particular protocol. In each of the seven DEA offices we contacted, we interviewed three or more supervisors. In the remaining office we interviewed one supervisor from one state covered under that protocol and discussed issues in the second state covered under that protocol with the ASAC during the management-level interview. In each of the seven ICE offices we contacted, we interviewed three or more supervisors; in the remaining office we interviewed two supervisors.

¹⁷GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

We conducted this performance audit from September 2010 through July 2011 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

DEA and ICE Missions

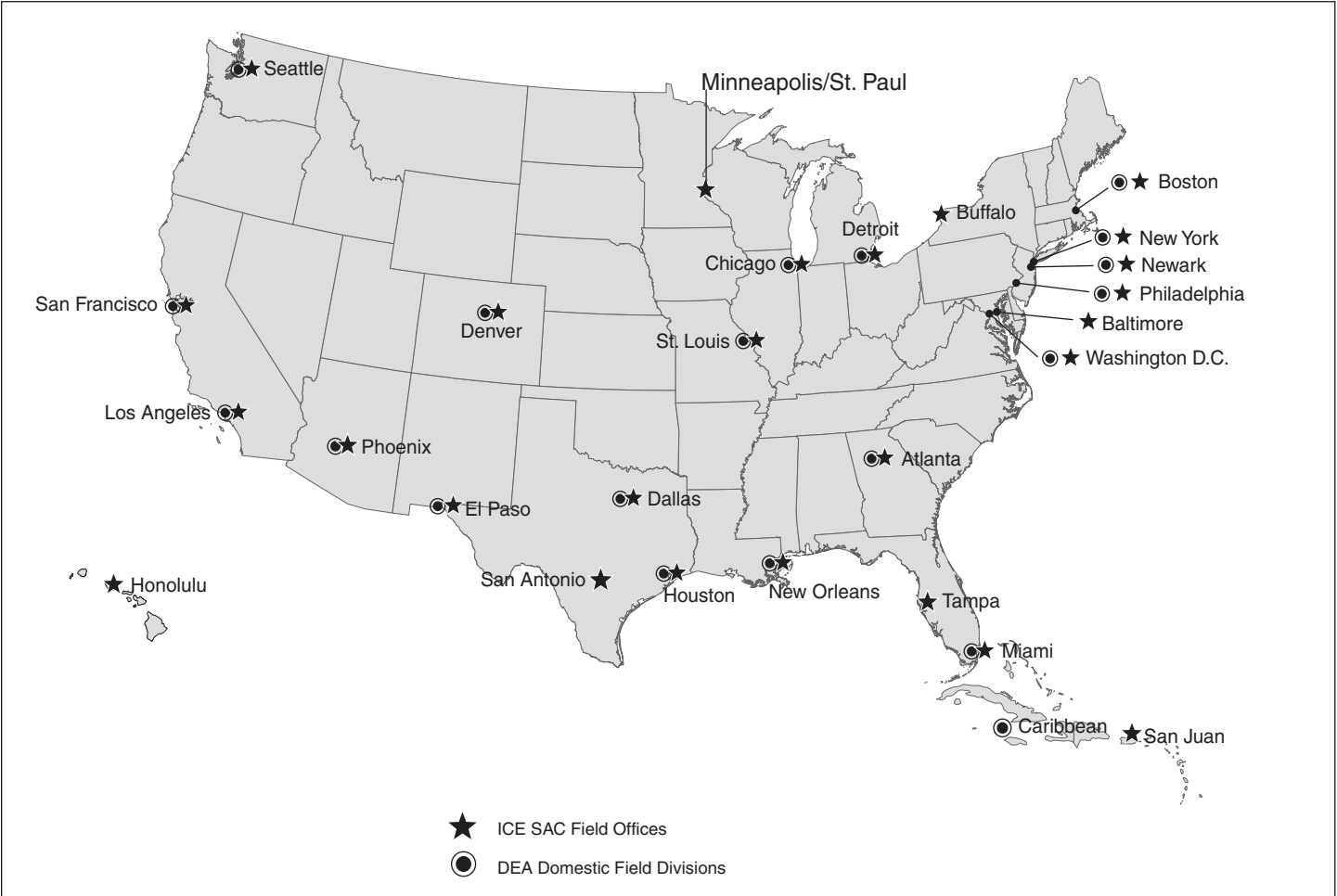
DEA is the nation's federal agency dedicated to drug law enforcement and accordingly, works to disrupt and dismantle the leadership, command, control, and financial infrastructure of major drug-trafficking organizations.¹⁸ DEA's Office of Operations Management is charged with supporting the domestic drug enforcement activities of DEA's 21 field divisions, which each have a corresponding field office with a DEA Special Agent in Charge (SAC) assigned. (See fig. 1.) Each field division has Assistant Special Agents in Charge (ASAC) and Group Supervisors who assist the SAC with managing the entire division, including its smaller field offices headed by a Resident Agent in Charge (RAC).

Formed in 2003 as a part of the U.S. government's response to the terrorist attacks on September 11, 2001, ICE's primary mission is to promote homeland security and public safety through the enforcement of federal laws governing border control, customs, trade, and immigration. ICE's office of Homeland Security Investigations (HSI) investigates immigration crime; human rights violations and human smuggling; smuggling of narcotics, weapons, and other types of contraband; financial crimes; cybercrime; and export enforcement issues. An important part of ICE's overall mission, drug-smuggling investigations, made up approximately 22-24 percent—one of the largest investigative categories—of ICE's total reported investigative hours for fiscal years 2006-2009. Within HSI, the Narcotics and Contraband Smuggling Unit is responsible for overseeing matters related to counternarcotics investigations with a connection to the border, including the implementation of the 2009 Agreement. ICE's Office of Intelligence and

¹⁸DEA is charged with enforcing Title 21 of the United States Code which contains the country's controlled substances laws, including the Controlled Substances Act and the Controlled Substances Import and Export Act of 1970.

Analysis also has an important role in ensuring that counternarcotics information is shared with the appropriate organizations. ICE has 26 field offices in the United States headed by SACs who are responsible for the administration and management of all investigative and enforcement activities, including counternarcotics, within the geographic boundaries of each office. (See fig.1.) Similar to DEA’s field office leadership, ICE also has ASACs and Group Supervisors to assist with managing the SAC field office and its smaller offices headed by a RAC.

Figure 1: Map of DEA Domestic Field Divisions and ICE SAC Field Offices



Sources: GAO analysis; MapResources (map); DEA and ICE (data).

DEA and ICE Interagency Agreements

Both the 1994 and 2009 Agreements contain key provisions defining ICE's authority to conduct counternarcotics investigations. ICE is authorized to investigate all immigration and customs violations except those involving narcotics; therefore, ICE has to request Title 21 authority from DEA to investigate counternarcotics cases that have a connection to a border or port of entry. In March 2009, we reported that DEA's and ICE's cross-designation procedures under the 1994 Agreement were problematic, due in part to misplaced cross-designation requests and the cap set in conjunction with the 1994 Agreement limiting the number of cross-designated agents to 1,475 agents.¹⁹ According to ICE headquarters officials, this cap limited ICE's ability to accomplish its mission because agents who were not cross-designated could not pursue border-related drug-smuggling investigations into the United States.²⁰ We recommended that the Attorney General and the Secretary of Homeland Security develop a new agreement or other mechanism to, among other things, provide efficient procedures for cross-designating ICE agents to conduct counternarcotics investigations.

Aligned with our March 2009 report recommendation, the 2009 Agreement changed the process for cross-designating ICE agents with Title 21 authority to investigate counternarcotics cases in that ICE can now select an unlimited number of agents for cross-designation. In addition, a consolidated list of prospective and approved ICE agents is exchanged at the ICE Assistant Secretary and DEA Administrator levels instead of by the field office SACs. The 2009 Agreement retained the 1994 Agreement's provision requiring the DEA and ICE field office SACs to designate an ASAC as the Title 21 Coordinator to manage Title 21 matters. According to ICE Narcotics and Contraband Smuggling Unit and DEA Operations Management officials, the Title 21 Coordinators are to process and review cross-designation requests at the field office level.

The 2009 Agreement also addressed our March 2009 recommendations by specifying that ICE participate fully in and staff the Fusion Center and the Special Operations Division. The Fusion Center is a Justice-led interagency organization that collects and analyzes drug-trafficking and related financial information and disseminates investigative leads. The

¹⁹ [GAO-09-63](#).

²⁰ According to DEA Operations Management officials, ICE's number of cross-designated agents under the 1994 Agreement did not reach the cap and ICE had hundreds of cross-designation slots available.

Special Operations Division is a DEA-led interagency organization established to target the command and control capabilities of major drug-trafficking organizations.

The Agreement also requires ICE to:

- commit fully to sharing all investigative reports and records from open and closed investigations, including those related to drugs, money laundering, bulk cash smuggling and financial crimes, gangs, and weapons; and
- provide and, in turn, have access to data related to all seizures of money, drugs, and firearms, including date of seizure, type of contraband, amount, place of seizure, and geographically based data, when known, to the El Paso Intelligence Center (EPIC).²¹ This center is a DEA-led tactical intelligence center that provides federal, state, and local law enforcement agencies information they can use in investigations and operations that target drug smuggling and other criminal activities.

Additionally, the 2009 Agreement states that “ICE intends to participate and share information to the same extent as other major federal partners in the Fusion Center and Special Operations Division, to include sharing information not yet entered into the shared databases.”

The 1994 and 2009 Agreements also address ICE’s (legacy Customs) authority to pursue counternarcotics investigations. According to the 1994 Agreement, ICE’s (legacy Customs) drug-related investigations are “restricted to individuals and organizations involved in the smuggling of controlled substances across U.S. international borders or through Ports of Entry.” In contrast, the 2009 Agreement provides that cross-designated ICE agents will be authorized to investigate narcotics smuggling with a clearly articulable nexus to the United States border or port of entry—only illegal drug importation/exportation schemes, including the activities to transport and stage the drugs within the United States or between the source or destination country and the United States. The Agreement states that an investigation does not have a nexus simply because at one time the narcotics crossed the border or came through a port of entry.

²¹ There is a separate and distinct August 2009 OCEDEF-ICE MOU that also governs ICE’s participation in the OCEDEF Fusion Center. OCEDEF officials told us that the 2009 Agreement was not an impetus for this MOU and is not connected to the Agreement. However, OCEDEF officials told us that our recommendation in [GAO-09-63](#) regarding ICE’s participation in the Fusion Center further encouraged ongoing OCEDEF-ICE negotiations and raised the priority of the issue.

The justification for a nexus also cannot be based solely on a buyer who purchased drugs from a cross-border smuggler. In addition, unless authorized as part of a task force or at the request of DEA, ICE agents are not to investigate cases of solely domestic production, sale, transportation, or shipment of narcotics.

As we reported in our 2009 report, collaboration and coordination between the two agencies are important because of their overlapping responsibilities and the need to operate across agencies while avoiding duplicative investigations and more importantly, ensuring officer safety. We found in the 2009 report that while senior DEA and ICE officials in certain field offices had established positive working relationships, there was a need to institutionalize consistent practices at all locations. Our report also underscored that positive working relationships between DEA and ICE counterparts did not exist at all locations, resulting in the likelihood of duplication between agencies and incidents that could threaten law enforcement officer safety. The 2009 Agreement addresses how DEA and ICE are to work together to stop the flow of narcotics into the United States by outlining both agencies' cross-designation, information-sharing, and deconfliction responsibilities.

DEA and ICE Have Taken Actions to Implement Cross-Designation, Information-Sharing, and Deconfliction Provisions of the 2009 Agreement

DEA and ICE have taken actions to implement the 2009 Agreement's provisions. The agencies have implemented the Agreement's cross-designation provisions through a revised process that is more streamlined and has resulted in enhanced flexibility in maximizing investigative resources, according to ICE Narcotics and Contraband Smuggling Unit officials. ICE has also implemented the Agreement's Fusion Center and Special Operations Division information-sharing provisions by sharing required data with these organizations. Further, ICE is working to complete the transfer of data to the El Paso Intelligence Center. Additionally, DEA and ICE developed and implemented local deconfliction protocols and used a variety of mechanisms to deconflict counternarcotics investigations in accordance with the Agreement. DEA and ICE headquarters and field office management officials interviewed generally reported that the implementation of the Agreement and local deconfliction protocols had generally improved deconfliction.

DEA and ICE Actions to Implement Cross-Designation Provisions Have Helped Maximize Investigative Resources

The Revised Cross-Designation Process

ICE took actions that fully implemented the cross-designation provisions of the 2009 Agreement, which revised the cross-designation provisions found in the 1994 Agreement, as illustrated in table 1.

Table 1: ICE Actions to Implement the Cross-designation Provisions

2009 Agreement provisions ^a	Actions taken by ICE to implement the provisions	GAO assessment ^b
1. The Assistant Secretary for ICE was authorized to select an unlimited number of ICE agents, whose duties include investigation of narcotics cases with a clearly articulable nexus, i.e., connection, to the border or port of entry, for cross-designation by the DEA Administrator.	<ul style="list-style-type: none"> In July 2009, ICE's Narcotics and Contraband Smuggling Unit requested that all field office SACs submit their lists of agents for whom they were requesting Title 21 cross-designation authority to the Unit. ICE headquarters did not impose a limit on the number of cross-designated agents each office could request and advised that the agents' need for Title 21 authority would be based on whether the agents' duties involved counternarcotics investigations. 	Fully implemented
2. The Assistant Secretary or his delegate will notify DEA twice yearly, or upon a request by DEA, of updates to the agents assigned.	<ul style="list-style-type: none"> ICE modified its process as described in fig. 2 below for making requests for cross-designating agents by consolidating its requests into one updated list for approval that it submits to DEA twice a year, rather than submitting individual requests as was done under the 1994 Agreement. In March 2010, ICE implemented a new automated system which is a component of an existing database to track, update, and report ICE's inventory of cross-designated agents. This component allows the Title 21 Coordinators or ASACs in each field office to update their respective cross-designation lists when they need to make changes. 	Fully implemented

Source: 2009 Agreement and GAO analysis of information from ICE Narcotics and Contraband Smuggling Unit and DEA Operations Management.

Notes:

^aProvisions of the Interagency Agreement represent the intentions, commitments, and required actions agreed upon by DEA and ICE.

^bWe compared and contrasted the cross-designation provisions of the Agreement with the actions taken by ICE to implement these provisions to determine the extent the agencies had implemented the Agreement in this area. Our determinations were based on the following categories:

Fully implemented: met all provision requirements.

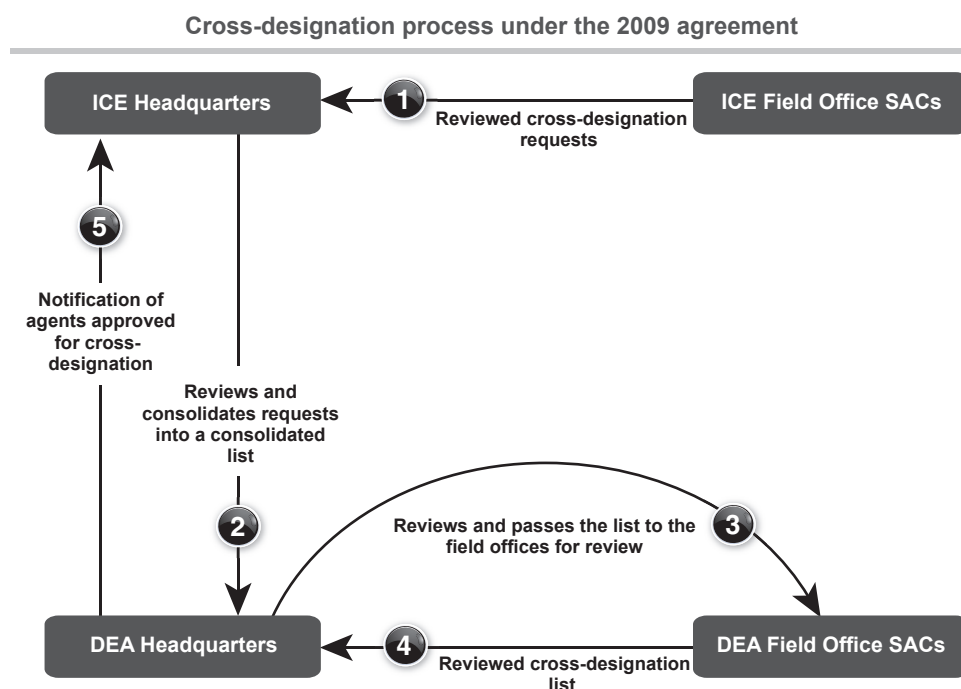
Partially implemented: actions were taken, but further actions were necessary to complete the implementation of the provision.

Not implemented: had not implemented any of the provision requirements.

Specifically, the 2009 Agreement changed the levels at which the requests are processed and approved, from the field office SAC level to the Assistant Secretary (ICE) and Administrator (DEA) level, which has eliminated a step in ICE's internal review of the requests. Additionally, to comply with the provisions of the 2009 Agreement, ICE and DEA modified the process for making and reviewing requests for cross-designating agents by consolidating the requests into one updated list for approval that ICE submits to DEA twice a year. Accordingly, DEA now provides ICE with one memorandum approving the ICE agents listed for cross-designation authority. Previously, under the 1994 Agreement, ICE and DEA exchanged individual requests and approvals.

The cross-designation process was also streamlined in other ways under the 2009 Agreement, as depicted in figure 2. The ICE field offices submit their cross-designation lists to ICE's Narcotics and Contraband Smuggling Unit and Assistant Secretary in headquarters for review. The ICE Assistant Secretary provides this list to the DEA Administrator for review. DEA Operations Management officials request that the DEA field office SACs then review the list to ensure that the ICE agents listed have counternarcotics duties, such as serving on task forces or other interagency groups that investigate counternarcotics cases. Next, the DEA field offices are to pass the reviewed list back to headquarters for review and approval from DEA's Administrator. DEA Operations Management officials then provide the final list to ICE's Narcotics and Contraband Smuggling Unit. DEA approved approximately 3,100 ICE agents for cross-designation authority following the implementation of the 2009 Agreement. According to DEA Operations Management officials, this authority remained in effect until the next update in January 2011. This number was more than double the number before the 2009 Agreement, and thus substantially increased investigative resources available, as discussed further below.

Figure 2: Process Used to Request and Approve Cross-Designation Requests under the 2009 Agreement



Source: GAO analysis of DEA and ICE information.

Both senior ICE Narcotics and Contraband Smuggling Unit officials and field management officials from two of the eight ICE offices we contacted specifically cited the development of the new component for tracking cross-designation requests as a benefit of the implementation of the 2009 Agreement because the lists can be updated in real time and kept current.²² A senior official from the ICE Unit reported that the new system is efficient and effective; however, ICE over the long term would like to develop a system to keep records for cross-designation requests that is searchable by agent name, among other items, and can accommodate the entry of comments on the agents requesting this authority. More importantly, according to these same officials, the type of system envisioned would also allow ICE headquarters to develop an archive that captures a record of the agents cross-designated during a specific time

²²Field office management in the other six offices did not specifically cite the development of the new cross-designation process as a benefit of the 2009 Agreement.

Implementation of the Revised Cross-Designation Process

frame, which will assist with internal audits. ICE Unit officials reported that they have not yet developed this system due to resource constraints.

Both senior DEA and ICE headquarters' officials stated that the 2009 Agreement's cross-designation provisions are much less bureaucratic and ICE officials report that the process has enhanced their flexibility in using investigative resources. DEA Operations and Management officials reported that the cross-designation process is more efficient since DEA now reviews one consolidated list of agents instead of numerous individual requests. ICE's Deputy Director reported that implementing the 2009 Agreement's cross-designation provision has been a major improvement to the process conducted under the 1994 Agreement. An official from the Unit explained that the previous cross-designation process was cumbersome for ICE agents because the paperwork for requesting Title 21 authority was complicated and time consuming. Moreover, these same officials reported that the list of cross-designated agents in each field office was continually out of date because the approval process took a long time and there was no mechanism in place to update the lists in real time.

Similarly, management officials from seven of the eight ICE field offices we contacted also reported that the 2009 Agreement had somewhat to greatly improved the cross-designation process.²³ ICE officials from these seven offices reported that in addition to the streamlined process, the lack of a limit on the number of cross-designated agents permitted field offices to increase the number of cross-designated agents available to investigate counternarcotics cases. One office reported that it even doubled its number of cross-designated agents. Moreover, the lack of a cap on the number of cross-designated agents and the subsequent increase has enhanced ICE's allocation of investigative resources for counternarcotics cases. In our prior work, ICE officials reported that the cap limited ICE's ability to accomplish its mission because agents who were not cross-designated could not pursue border-related drug-smuggling investigations into the United States.²⁴ For instance, one ICE field office management official in a smaller interior office reported that the former cap was difficult because this office had a limited number of

²³In one of the eight ICE field offices we contacted, management officials reported that the 2009 Agreement had neither improved nor worsened the cross-designation process.

²⁴According to DEA Operations Management officials, they were uncertain of how the cap prevented ICE from meeting its mission since ICE had hundreds of unused cross-designation slots available prior to the 2009 Agreement.

cross-designated agents and if one or two of these agents were out of the office, he did not have cross-designated agents for investigating counternarcotics cases. Similarly, another ICE field office management official reported that the 2009 Agreement allowed his office to have a pool of agents authorized to work counternarcotics investigations. Views from DEA management officials from the offices we contacted were mixed regarding the impact of the 2009 Agreement on the cross-designation process. In four of the eight DEA field offices that we contacted, management officials reported that the Agreement had neither improved nor worsened the cross-designation process. Additionally, in two of the eight DEA field offices, the management officials reported that the Agreement had somewhat to greatly improved the process.²⁵

DEA and ICE also made revisions to the cross-designation process after the 2009 Agreement was implemented to respond to concerns from both agencies. Specifically, DEA and ICE were concerned with how to accommodate cross-designation needs that occur between the reviews of the master lists that occur every 2 years. ICE officials stated that they would prefer that DEA review the cross-designation list every 90 days instead of every 2 years to capture these out-of-cycle requests. According to an official from ICE's Narcotics and Contraband Smuggling Unit, the ability of ICE to request cross-designation authority for agents more often than every 2 years is important. An agent working a nonnarcotics investigation, such as a bulk cash smuggling case, may over the course of the investigation require Title 21 authority to continue to pursue the narcotics component. Further, this official stated that the ability to more frequently request cross-designation authority, or in emergency situations, is particularly important for ICE's smaller field offices, which may only have one or two agents cross-designated but may need more agents with this authority for a particular investigation.

Senior DEA Operations Management officials recognized that the frequent movement of ICE agents among the field offices over the course of 2 years justifies reviewing the master list more frequently. These officials explained that the most recent master list from ICE, which DEA reviewed, had more than 3,000 names. Reviewing updates to the list twice a year, instead of a master list every 2 years will, according to these officials, ease the review process for DEA because they will review a

²⁵Management officials in two of the eight DEA field offices reported that they did not have an opinion or did not know how the 2009 Agreement had affected the process.

smaller update and only make changes in their database for those agents needing updates.

Negotiations regarding more frequent reviews concluded in 2010 and resulted in specific guidance that:

- ICE is to submit a master list of ICE agents requesting cross-designation authority to DEA every 2 years, but,
- ICE is to also transmit updates to the master list to DEA by January 5 and June 5 of each year.
- DEA is to notify ICE by January 20 and June 20 of the status of these requests.

According to senior DEA officials, they notified ICE that several of the agents listed on the first list ICE submitted in January 2011 as a result of the negotiations were no longer with the corresponding office or agency. ICE reevaluated the list and provided a revised master list to DEA, which DEA reviewed for approval of cross-designation authority, and sent back to ICE for revisions. As of June 30, 2011, ICE had finalized the list and was preparing to send it to DEA. The negotiations also specified that the cross-designation authority of the ICE agent is effective from the date DEA notifies ICE's Narcotics and Contraband Smuggling Unit of approval, which addresses a concern raised by an ICE official from this unit regarding ambiguity over the official date of effectiveness.

In addition, DEA and ICE also addressed the process for handling emergency cross-designation requests that occur between the twice yearly updates during these negotiations. If the need arises to immediately cross-designate an ICE agent, due to developments in an investigation or the reassignment of the agent, the ICE field office Title 21 Coordinator is to send an e-mail, including a justification and an anticipated time limit for the request, to ICE's Narcotics and Contraband Smuggling Unit. DEA headquarters reviews the request, if possible, within a few hours or days and, if justified, approves cross-designation authority for a maximum of 60 days.

ICE Has Implemented the Majority of the Information-Sharing Provisions and Is in the Process of Completing the Last Provision by Transferring Data to the El Paso Intelligence Center

As we recommended in March 2009 and as required by the subsequent 2009 Agreement, ICE has implemented the information-sharing provisions and is fully participating in DOJ's Fusion Center and Special Operations Division. ICE is also taking action to address the information-sharing provision regarding the sharing of drug seizure, currency, and firearms data with the El Paso Intelligence Center. Table 2 shows the specific information-sharing provisions of the 2009 Agreement and the actions ICE has taken to become a full partner in these organizations.

Table 2: ICE Actions to Implement the Fusion Center, Special Operations Division, and El Paso Intelligence Center Provisions

Information-sharing entity and related 2009 Agreement provisions ^a	Actions taken by ICE to implement provisions	GAO assessment ^b
<p>The Fusion Center collects and analyzes all-source drug and drug-related financial investigative information to support coordinated multijurisdictional investigations that are focused on disrupting and dismantling the most significant drug-trafficking and money laundering organizations.</p> <p>Provisions:</p> <ol style="list-style-type: none"> 1. Requires ICE to participate fully in and staff the Fusion Center. 2. ICE commits fully to sharing all investigative reports and records from open and closed investigations, including those related to drugs, money laundering, bulk cash smuggling and financial crimes, gangs, and weapons. 3. ICE intends to participate and share information to the same extent as other major federal partners in the Fusion Center and Special Operations Division, to include sharing information not yet entered into the shared database. 	<ul style="list-style-type: none"> • ICE has, according to Fusion Center officials, fully staffed the Center. • ICE headquarters issued guidance to management officials, group supervisors, and agents regarding the provision requirements and benefits, such as enhancing interagency deconfliction and cooperation, of partnering with DOJ's Fusion Center and Special Operations Division. This guidance directed that ICE fully staff and share information and intelligence through the Fusion Center. • According to Fusion Center officials, ICE completed the transfer of active and current (2000-present) ICE data to the Fusion Center. 	Fully implemented

Information-sharing entity and related 2009 Agreement provisions ^a	Actions taken by ICE to implement provisions	GAO assessment ^b
<p>The Special Operations Division is a DEA-led interagency organization established to target the command and control capabilities of major drug-trafficking organizations.</p> <p>Provisions:</p> <ol style="list-style-type: none"> 1. Requires ICE to participate fully in and staff the Special Operations Division. 2. ICE commits fully to sharing all investigative reports and records from open and closed investigations, including those related to drugs, money laundering, bulk cash smuggling and financial crimes, gangs, and weapons. 3. ICE intends to participate and share information to the same extent as other major federal partners in the Fusion Center and Special Operations Division, to include sharing information not yet entered into the shared databases. 	<ul style="list-style-type: none"> • ICE Homeland Security Investigations assigned a complete investigative unit to the Special Operations Division. Additionally, ICE provided approximately \$2 million a year to support this unit, which regularly attends Division coordination meetings to share information regarding investigative overlaps and strategy, and agency roles in investigations. • ICE Homeland Security Investigations issued guidance to management officials, group supervisors, and agents strongly encouraging the submission of information to the Special Operations Division and describing the Division's information-sharing and deconfliction capabilities. • This guidance directed that all ICE field offices provide all telephone numbers, including contextual case information, identified in any criminal investigations targeting narcotics smuggling, narcotics-related money laundering, and terrorism-related activity to ICE's Special Operations Unit, located at the Division. Specifically, all submissions to the Special Operations Unit must include the following information: <ul style="list-style-type: none"> • case number and case title; • case agent name and contact number; • Title III (wiretap) communication number(s);^c and • a detailed synopsis of the investigation and the significance of submitted data. 	Fully implemented

Information-sharing entity and related 2009 Agreement provisions^a

The El Paso Intelligence Center is a DEA-led tactical intelligence center that provides federal, state, and local law enforcement agencies information they can use in investigations and operations that target drug smuggling and other criminal activities.

Provisions:

1. Requires ICE to provide and, in turn, have access to data related to all seizures of money, drugs, and firearms, including date, type of contraband, amount, place of seizure, and geographically based data, when known, to the El Paso Intelligence Center.

Actions taken by ICE to implement provisions

- ICE operations officials disseminated a memorandum to all ICE management officials directing that, in accordance with the 2009 Agreement's information-sharing provisions, ICE share drug, currency, and weapons seizure data with the Center.
- ICE agreed to the transfer of drug, chemical, weapon, and currency seizure reporting maintained by ICE for the period of October 2000 to December 2010 and to a subsequent transfer of data covering January 2011 to March 2011.
- ICE has provided data to the Center, covering seizures during the agreed-upon time frame, which the Center is analyzing and integrating into its systems.
- However, ICE has not completed its transfer of data to the Center. The Center and ICE expect that the subsequent data transfer and a schedule for regular data transfers will be complete by fall 2011.

GAO assessment^b

Partially implemented

Source: 2009 Agreement and GAO analysis of ICE Narcotics and Contraband Smuggling Unit, Fusion Center, Special Operations Division, and El Paso Intelligence Center documentation regarding the implementation of these provisions.

Notes:

^aProvisions of the Interagency Agreement represent the intentions, commitments, and required actions agreed upon by DEA and ICE.

^bWe compared and contrasted the information-sharing provisions of the Agreement with the actions taken by ICE to implement these provisions to determine the extent ICE had implemented the Agreement in this area. Our determinations were based on the following categories:

Fully implemented: met all provision requirements.

Partially implemented: actions were taken, but further actions were necessary to complete the implementation of the provision.

Not implemented: had not implemented any of the provision requirements.

^cTitle III of the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. No. 90-351, 82 Stat. 197, was adopted in 1968 and expanded in 1986. It sets procedures for court authorization of real-time surveillance of all kinds of electronic communications, including voice, e-mail, fax, and Internet, in criminal investigations.

Both senior DOJ Fusion Center and DEA Special Operations Division officials reported that ICE is now a full partner in each of their respective organizations. Senior Fusion Center officials reported that ICE completed its data transfer ahead of schedule and is now sharing all required data with DOJ's Fusion Center. Senior DEA and Special Operations Division officials reported that ICE's information sharing with DOJ's Division has improved since the 2009 Agreement. These same officials reported that ICE increased the number of records it provided to the Division by approximately 51 percent from fiscal years 2009 through 2010.

Additionally, according to senior DEA and Division officials, ICE has filled all of its fiscal year 2010 position vacancies and received six additional positions for fiscal year 2011: three special agents and three intelligence research analysts. ICE has filled three of these six positions and is in the process of filling the remaining three vacancies.

ICE is taking steps to complete the implementation of the information-sharing provision in the 2009 Agreement regarding the sharing of information, particularly drug seizure, currency, and firearms data, with the El Paso Intelligence Center. However, ICE has not yet transferred all of the data required by the provision to the Center. The Center depends on data from its law enforcement partners for informing, coordinating, and deconflicting counternarcotics investigations. A senior Homeland Security Investigations official reported that ICE shares information with the Center and has taken steps as described in table 2 to complete its implementation of this provision.

According to El Paso Intelligence Center and ICE Homeland Security Investigations officials, ICE is working with the Center to complete the data transfer by fall 2011. ICE Homeland Security Investigations and Center officials reported that ICE has provided over 5 million records to the Center.²⁶ Center officials requested that ICE provide additional follow-up data regarding Federal Drug Identification Numbers, which are unique identification numbers that EPIC assigns to each drug seizure that meets a certain threshold. According to Center officials, these data, which ICE failed to provide in the past, will assist them with determining duplicative records in the data set. ICE Homeland Security Investigations officials reported that ICE has provided the Center with Federal Drug Identification Number data from October 2000 to December 2010 and will include these data with all future transfers.

Although the staffing of ICE personnel at the El Paso Intelligence Center is not required by the 2009 Agreement, Center officials reported that ICE has a total of 11 available positions at the Center. ICE filled 7 of these positions but has 4 vacancies, 2 of which recently occurred under emergency situations. Officials from ICE's Office of Intelligence and

²⁶According to ICE Homeland Security and Investigations, ICE has provided approximately: 517,000 case records; 517,778 incident records; 1,409,276 seized property records; 956,446 person subject records; 976,285 person address records; 47,116 person phone records; and, 952,341 person alias records.

Analysis reported that these vacancies will be filled by the end of fiscal year 2011.

**DEA and ICE Have
Implemented
Deconfliction Provisions
and Report That Overall
Deconfliction Has
Improved**

**DEA and ICE Have Developed
Local Deconfliction Protocols**

The 2009 Agreement established that ICE's cross-designated agents have the authority to investigate narcotics smuggling with a clearly articulable nexus to the border, and states that deconfliction is paramount and mandatory in investigations. Agencies deconflict to (1) ensure officer safety and (2) prevent one agency's law enforcement activity from compromising the other agency's ongoing investigation because agencies invest extensive time and resources in sophisticated law enforcement operations. Specifically, the 2009 Agreement set up a two-part deconfliction process that required (1) ICE to notify DEA of all counternarcotics investigations and DEA to notify ICE when DEA uncovers nondrug violations that fall under ICE's mission (e.g., alien smuggling or human trafficking), and (2) DEA and ICE to use various mechanisms to deconflict counternarcotics enforcement operations locally, as appropriate. As part of deconfliction, the Agreement encouraged DEA and ICE field offices to participate in joint investigations and also set the expectation that operational deconfliction issues were to be resolved at the lowest level of authority (i.e., Group Supervisor). Additionally, the Agreement established a headquarters entity to resolve those issues that could not be resolved in the field. Table 3 presents the deconfliction provisions of the 2009 Agreement and summarizes the actions ICE and DEA took to implement them.

Table 3: DEA and ICE Actions to Implement the Provisions of the 2009 Interagency Agreement on the Two-Part Deconfliction Process

2009 Agreement provisions ^a	Actions taken by DEA and ICE to implement the provisions	GAO assessment ^b
Notification requirement: ICE is to notify DEA of all counternarcotics investigations. DEA is to notify ICE when DEA determines that a case has a connection to alien smuggling, nondrug-related international illicit financial schemes, human trafficking, or significant quantities of counterfeit or other nondrug contraband. DEA may invite ICE to participate in the investigation or refer the non-Title 21 offense to ICE. The manner of notification is left up to the local SACs.	To implement the notification provisions of the Agreement, DEA and ICE field offices implemented local deconfliction protocols.	Fully implemented
Deconfliction requirement: Local DEA and ICE SACs are to develop written deconfliction strategies. The Agreement further suggests a variety of mechanisms, such as local deconfliction centers or a brief written notice, which might be used to deconflict enforcement operations (e.g., arrest warrants or surveillance). The manner of deconflicting in advance of enforcement operations is left up to the discretion of local SACs. DEA and ICE field offices are to invite their counterpart to participate in their investigations and task forces. DEA and ICE first-line supervisors are to resolve operational conflicts or issues in the event of an overlap or conflict. If a dispute cannot be resolved by first-line supervisors, then it is to be elevated from the first-level supervisor, to the Title 21 Coordinator, to the SAC.	To implement the deconfliction provisions of the Agreement, DEA and ICE field offices implemented local deconfliction protocols.	Fully implemented
The Headquarters Review Team (HRT): Established by the Agreement, the HRT is to, among other things, resolve deconfliction and coordination issues that cannot be resolved at lower levels. The HRT is comprised of three senior managers each from DEA and ICE, with the DEA Chief of Operations serving as Chair and ICE Director of Operations serving as Vice Chair. ^c	According to DEA and ICE headquarters officials, the HRT convened on May 31, 2011, and affirmed that there were no overarching or systemic issues involving deconfliction or coordination that required headquarters resolution.	Fully implemented

Source: 2009 Agreement and GAO analysis of ICE Narcotics and Contraband Smuggling Unit and DEA Operations Management documentation and testimonial evidence.

Notes:

^aProvisions of the Interagency Agreement represent the intentions, commitments, and required actions agreed upon by DEA and ICE.

^bWe compared and contrasted the deconfliction provisions of the Agreement with the actions taken by DEA and ICE to implement these provisions to determine the extent the agencies had implemented the Agreement in this area. Our determinations were based on the following categories:

Fully implemented: met all provision requirements.

Partially implemented: actions were taken, but further actions were necessary to complete the implementation of the provision.

Not implemented: had not implemented any of the provision requirements.

^cThe ICE Director of Operations is the Homeland Security Investigations (HSI) Executive Associate Director.

After the Acting DEA Administrator and Assistant Secretary for ICE signed the Interagency Agreement in June 2009, DEA and ICE headquarters directed their respective field offices to develop local deconfliction protocols to implement the Agreement. DEA and ICE headquarters provided a template to be used by corresponding DEA and

Mechanisms That DEA and ICE
Offices Reported Using to
Deconflict Counternarcotics
Investigations

ICE offices to develop their respective local protocol. The template sets out general requirements for the Title 21 Coordinator position and deconfliction of operational activities. As a result, SACs covering the 21 DEA and 26 ICE field offices signed 28 protocols in 2010. (See app. II.)

The local deconfliction protocols established specific policies applicable to the geographic area (e.g., states) covered by the protocol.²⁷ Each local protocol described the process and mechanisms to be used for notification and deconfliction, detailing the types of information to be provided. The protocols also addressed particular issues or needs of the local DEA and ICE offices. These topics included the identification of the respective Title 21 coordinators; designation of points of contact in addition to the ASAC/Title 21 Coordinator when the protocol covered a large geographic area or multiple offices (e.g., protocols that included more than one state); invitation to DEA to participate in ICE counternarcotics investigations; participation in each others' groups and task forces within the geographic area; and the process for coordinating investigative activities with other federal agencies, such as U.S. Customs and Border Protection.

To implement the two-part deconfliction process established by the 2009 Agreement, DEA and ICE field offices we contacted reported using a variety of mechanisms. First, to implement the notification provisions, the eight DEA and eight ICE field offices reported using different mechanisms, such as through a worksheet or e-mail. In addition to the usual practice of deconflicting at the lowest levels, notification is to occur through the Title 21 Coordinators, who are responsible for ensuring that coordination and deconfliction take place. For example, ICE management in one of the offices stated that its office completes a deconfliction worksheet when it initiates a counternarcotics investigation or activity (e.g., warrants, undercover operations, or a controlled delivery of drugs) and sends the worksheet to the DEA Group Supervisor and DEA and ICE Title 21 Coordinators. The worksheet provides information on the investigation (e.g., the violation, suspect, and ICE office carrying out the investigation, among other things). Using this information, DEA is to determine (1) any overlap between this investigation and any of DEA's investigations and (2) whether or not DEA will provide assistance and, if

²⁷ICE officials noted that the 2009 Agreement and local protocols are not the only agreements governing ICE's relationships with DEA and on counternarcotics (e.g., an agreement on controlled deliveries of drugs and ICE's agreement with U.S. Customs and Border Protection related to the handling drug seizures).

so, the type of assistance. DEA sends its response to the ICE Group Supervisor and Title 21 Coordinator.

Second, DEA and ICE field offices also reported using a variety of deconfliction mechanisms, including processing information through local deconfliction center databases, sharing plans for conducting law enforcement actions, and processing information through the Special Operations Division database to deconflict operations and targets of investigations. Because of differences in the availability of mechanisms, DEA and ICE offices may use different mechanisms to deconflict law enforcement actions. For example, DEA and ICE offices without access to a local deconfliction center may share plans or communicate by telephone to deconflict operations. Additionally, according to DEA and ICE headquarters officials, because different databases contain different information, DEA and ICE use different databases to deconflict (1) law enforcement operations and (2) targets of investigations.²⁸ For example, to deconflict an operation (e.g., an arrest) to prevent potential “blue on blue” situations, DEA and ICE offices may use the local High Intensity Drug Trafficking Area (HIDTA) database to determine whether another law enforcement agency is conducting an action at the same location or vicinity.²⁹ To deconflict the targets of an investigation, information may be processed through the Special Operations Division to identify any connections to another agency’s investigation (e.g., the same phone number, name, or address).

Specifically, the protocols for the eight corresponding DEA and ICE field offices that we contacted identified the local deconfliction center that was to be used to deconflict counternarcotics investigations in the respective area of operation. DEA and ICE field offices generally reported entering information (e.g., names, phone numbers, addresses, or location of the operation) into the local center’s database to identify other agencies’ operations that might conflict and lead to a “blue on blue” situation. In

²⁸According to DEA and ICE headquarters officials, there are two types of deconfliction: (1) operational or event deconfliction is conducted to determine overlap of specific law enforcement actions (e.g., an arrest, wiretap, or a controlled delivery of drugs) to avoid a “blue on blue” situation between law enforcement agencies conducting operations at the same or nearby location, and (2) target (investigation) deconfliction is conducted to prevent duplicative investigations and is related to information sharing between agencies.

²⁹The HIDTA program, created by the Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, 102 Stat. 4181, is to reduce drug trafficking and production in the United States by, among other things, facilitating cooperation among federal, state, local, and tribal law enforcement agencies.

The 2009 Agreement and Local
Deconfliction Protocols
Generally Improved the
Deconfliction Process

instances of a potential conflict, the systems usually generate contact information, notifying both agencies, so that the operations may be deconflicted. However, within the geographic area encompassed under a protocol, not all suboffices had access to a HIDTA database; consequently, these offices relied on other mechanisms to deconflict. For example, in a rural area or large state with a small population, an ICE agent might contact the local DEA office by phone, and vice versa. Field management or first-line supervisors in other ICE offices reported that they deconflicted by providing DEA with plans for a law enforcement activity. First-line supervisors in the eight DEA and eight ICE field offices reported that deconfliction usually took place at the lowest level—agent to agent, Group Supervisor to Group Supervisor, but no higher than the ASAC/Title 21 Coordinator. Any problems in deconfliction were elevated up the chain of command from the agent to the Group Supervisor, but generally not beyond the ASAC, and rarely to the SAC.

In addition to the 2009 Agreement, DEA and ICE field office management and first-line supervisors identified other factors, such as colocation and task forces, that enhanced coordination and deconfliction between DEA and ICE in the field offices. Appendix II provides information on other factors that support deconfliction and incentives to pursue joint investigations identified by the eight DEA and eight ICE field offices we contacted.

Field management in the DEA and ICE offices we contacted generally said that DEA and ICE had been taking actions to deconflict law enforcement actions locally prior to the implementation of the 2009 Agreement and local protocols. However, management officials in 12 of the 16 DEA and ICE offices also reported that the 2009 Agreement and local deconfliction protocols had generally improved local deconfliction by mandating deconfliction and as a result better ensuring officer safety and maximizing resources.³⁰

Specifically, in all of the DEA offices, field management said that the 2009 Agreement and local protocols had somewhat improved or greatly improved the deconfliction process, finding the mandatory deconfliction provision to be helpful.³¹ They said that the process had improved

³⁰Additionally, field management in four of the eight ICE offices we contacted reported that the Agreement and local protocols had neither improved nor worsened the deconfliction process.

³¹Seven of the eight DEA offices characterized the local deconfliction process as having somewhat improved and one characterized the process as having greatly improved.

because the Agreement and local protocols (1) reminded ICE to notify DEA of ICE counternarcotics investigations, (2) brought more attention to the tools available for deconflicting DEA and ICE investigations, and (3) mandated deconfliction, which resulted in agents following the established policy. Moreover, among the eight DEA offices we contacted, first-line supervisors in five offices generally reported that the deconfliction process had somewhat improved and those in the remaining three offices generally reported that it had neither improved nor worsened. Specifically, supervisors from these three offices explained that prior to the Agreement, relationships between DEA and ICE had been good and such positive relationships continued.

Field management officials in four of eight ICE offices responded that the 2009 Agreement and local protocols had somewhat or greatly improved the deconfliction process and officials from the remaining four offices responded that it had neither improved nor worsened.³² Among the offices reporting that the process had somewhat improved, officials from these offices explained that the Agreement and local protocol had created a common understanding between DEA and ICE as to what was expected by way of deconfliction, rather than leaving deconfliction to agents' good will. Moreover, officials said that the Agreement and protocol had gone a long way toward protecting officer safety by leaving little room for interpretation about when and how DEA and ICE were to deconflict. Among the ICE offices reporting that deconfliction had neither improved nor worsened, they said that prior to the implementation of the Agreement local DEA and ICE relationships had been good, local deconfliction centers had been working well, or there were no local challenges. First-line supervisors in seven of eight ICE offices generally reported that the deconfliction process had neither improved nor worsened.

DEA Notification to ICE and ICE Understanding of the Nexus to the Border

DEA Notification to ICE

Even with generally reported improvement in deconfliction between DEA and ICE as a result of the two-part deconfliction process provided for in the 2009 Agreement, ICE Narcotics and Contraband Unit officials saw the

³²Among the eight ICE offices, management in three of the eight offices responded somewhat improved and one greatly improved.

need to expand notification by DEA into two areas not covered by the Agreement. First, these officials said that DEA's providing notification to ICE of DEA counternarcotics investigations on the border would be helpful. Similarly, ICE management officials and first-line supervisors in three of the eight ICE field offices and supervisors in a fourth office generally believed that DEA should notify ICE of counternarcotics investigations that might overlap with an ICE investigation, such as those along the border, to avoid possible "blue on blue" situations as well as duplication of effort. For example, according to ICE management in one office, ICE may be investigating an organization that is moving people north or guns south across the southern border, while DEA is investigating the drug-trafficking activities of the same organization. Second, ICE Narcotics and Contraband Unit officials said that DEA notification of ICE of DEA financial investigations of bulk cash also would be helpful.

However, DEA headquarters officials believed that notification issues had been resolved during the negotiation of the 2009 Agreement and underscored that ICE officials had not raised these issues at the May 31, 2011, meeting of the HRT. Specifically, with regard to DEA notifying ICE of DEA bulk cash investigations, DEA headquarters officials said that the issue had been resolved during the negotiation of the 2009 Agreement. They explained that, at that time, DEA and ICE officials had agreed not to require DEA to notify ICE of DEA counternarcotics investigations involving quantities of currency or currency equivalents (e.g., gold, natural resources, real estate, precious gems), because it would be too burdensome to DEA as most DEA counternarcotics investigations involve drug proceeds.^{33,34} DEA headquarters officials said that it was not feasible for DEA to notify ICE of every investigation involving drug proceeds, but observed that the expansion of ICE's bulk cash section at the El Paso Intelligence Center and the information available through the section might help to mitigate this situation.

³³According to DEA headquarters officials, DEA does not have authority to investigate bulk cash smuggling under Title 31 of the United States Code, but investigates large quantities of cash related to a Title 21 offense—drug trafficking proceeds. Officials said that DEA has to have an affidavit demonstrating a connection between the drug case and the proceeds. Without such an affidavit DOJ's Asset Forfeiture Division cannot process a DEA seizure of bulk cash.

³⁴A currency equivalent is a medium of exchange that can be anything that has value and is provided to an individual for services rendered or from an item provided (i.e., licit or illicit) in nature.

ICE's Understanding of the Nexus to the Border

ICE's Office of Intelligence and Analysis officials told us that ICE's Bulk Cash Smuggling Center, located in Vermont, was working with the El Paso Intelligence Center to establish a Bulk Cash Smuggling Center Intake and Analysis Section at the El Paso Intelligence Center. These officials and El Paso Intelligence Center officials said that as of June 2011, they were finalizing the protocols that will be used. Additionally, ICE's Assistant Director for Operations stated that the bulk cash section at the El Paso Intelligence Center will help deconflict and share information with state and local law enforcement and eventually provide a useful repository of bulk cash information.

Furthermore, ICE's Assistant Director for Operations stated that during the HRT meeting, ICE did not raise the issue of DEA notifying ICE of DEA counternarcotics investigations, specifically those involving currency or currency equivalents. According to this official, ICE management has evaluated this issue and concluded that such notification was not necessary so long as DEA agents use the local deconfliction centers and ICE agents continue to communicate with DEA locally. She said that the existing and newly established deconfliction mechanisms are sufficient to provide notification. ICE's Assistant Director for Operations also said that all SACs are aware that ICE is proceeding with the implementation of the 2009 Agreement and at the next leadership conference, ICE headquarters will reaffirm this message. DEA and ICE agreed that no modifications to the Agreement will be pursued at this time and issues raised by either agency will be resolved as their relationship develops. She further stated that if deconfliction mechanisms are found to be insufficient in the future, ICE would pursue discussions with DEA regarding notification.

According to our March 2009 report, lack of parameters for what constitutes a border or port-of-entry smuggling operation hindered collaboration between DEA and ICE.³⁵ The 2009 Agreement sought to clarify the parameters of ICE's Title 21 authority and what constitutes a clearly articulable nexus to the border by specifying that an investigation does not have a nexus simply because at one time the narcotics crossed the border or came through a port of entry or solely because a buyer purchased drugs from a cross-border smuggler.

Regarding the extent to which the Agreement affected the understanding of the nexus to the border among DEA and ICE agents, the DEA and ICE

³⁵ [GAO-09-63](#).

offices we contacted varied in their responses. Specifically, field management from five of eight DEA offices reported that the understanding had somewhat or greatly improved, and in the remaining offices, officials from two reported that the understanding neither improved nor worsened and one reported it somewhat worsened. For example, officials in one of the five DEA offices explained that the determination of the nexus begins with ICE providing DEA with a plan for an operation, which prompts discussions between DEA and ICE agents and first-line supervisors regarding ICE's role in the investigations. These officials reported that in their respective areas of operation, they had no issues in determining nexus. In the one DEA office, officials—both management and first-line supervisors—reported that the understanding of the nexus had somewhat worsened because of the way in which their ICE counterparts were interpreting the nexus, despite its being defined in the Agreement. (See below.) In contrast, ICE management in all eight of the offices contacted responded that the understanding of the nexus had neither improved nor worsened. However, the explanation for the responses varied, including (1) the 2009 Agreement had not changed the meaning of the nexus; (2) the nexus is determined on a case-by-case basis; (3) the local DEA office had never raised questions about ICE's determination of a nexus or, if it did, the DEA and ICE Group Supervisors or Title 21 Coordinators resolved the issue quickly. In terms of first-line supervisors, all ICE and five of eight DEA offices generally reported that the Agreement and local protocols had neither improved nor worsened the understanding of the nexus to the border. The supervisors in the remaining three DEA offices generally reported that the understanding of nexus had improved.

Although DEA and ICE officials said there was a general understanding of the nexus, officials from DEA and ICE field offices identified two issues that still posed issues to agents determining nexus to the border in some offices. First, field management in three of the eight DEA offices, as well as first-line supervisors in two of eight offices, for a total of four DEA offices, said they were confused about the corresponding ICE office's interpretation of the nexus in some cases.³⁶ They raised the concern that ICE agents were not following the Agreement by stating that a particular investigation has a nexus to the border because "all drugs come across

³⁶These concerns were expressed by DEA field management in two offices, management and first-line supervisors in one office, and first-line supervisors in one office for a total of four DEA offices.

the border,” thereby allowing ICE to pursue the investigation. The continued misunderstanding of the nexus was underscored when an ICE Group Supervisor from one of the corresponding ICE offices explained to us that it was easy to articulate a nexus to the border and justify ICE’s pursuing a counternarcotics investigation, because cocaine, marijuana, and heroin are not grown in the United States but come from across the border. However, other ICE supervisors participating in the interview said that solely the fact that drugs come over the border was not adequate justification to show a nexus, but other factors, such as the individual’s involvement in an international trafficking organization, had to be considered. Similarly, an ICE headquarters Narcotics and Contraband Smuggling Unit official said that ICE’s counternarcotics investigations are to involve the staging, transporting, importing, or exporting of drugs and the argument that all drugs cross the border was not sufficient to show the nexus for such an investigation.

Second, first-line supervisors in two of eight ICE offices said that the involvement of foreign nationals in drug trafficking should be justification for ICE to pursue a counternarcotics investigation in light of ICE’s immigration responsibilities.³⁷ However, field management in the corresponding DEA offices raised the concern that this interpretation of the nexus led to ICE’s investigation of domestic drug cases (e.g., alien criminal gangs selling drugs retail within the United States), which is not in compliance with the Agreement. ICE headquarters Narcotics and Contraband Smuggling Unit officials told us that for ICE to be able to pursue a Title 21 counternarcotics investigation, it was not sufficient that criminal aliens were selling drugs; the criminal aliens had to be involved in staging or smuggling drugs. If the drug activity is domestic, then ICE is to turn the investigation over to DEA.

Both DEA and ICE headquarters officials said that issues related to nexus were generally being handled by field office managers at the local level. ICE’s Assistant Director for Operations said that the nexus issue (1) had not been elevated to her level within ICE and (2) DEA had not raised it at the HRT. This official said that she spoke with the SACs regularly and they had raised the nexus issue in very few circumstances. She explained that nexus issues associated with a specific case are resolved at the local level. Similarly, ICE headquarters HSI officials said that resolving nexus issues between DEA and ICE is a local leadership issue, not a matter for

³⁷The first-line supervisors in the remaining six offices contacted did not raise this issue.

ICE headquarters. Furthermore, they said it was not possible to craft guidance that specifically defines what a nexus is and lays out what DEA and ICE investigates. At headquarters, DEA senior officials said that they believed that ICE headquarters officials understood the meaning of a “clearly articulable nexus to the border” and corresponding DEA and ICE field offices were generally not experiencing issues, although individual ICE agents may misinterpret the nexus to pursue a particular investigation. These officials said that if ICE follows the language in the 2009 Agreement, there is no problem.

DEA and ICE Have Primarily Used Established Processes to Monitor the Agreement, and the Headquarters Review Team Did Not Identify Any Systemic Issues

According to DEA and ICE officials, the agencies have each primarily used established processes to monitor the implementation of the 2009 Agreement. DEA and ICE conducted ongoing monitoring of implementation and did not identify any systemic implementation issues. According to DEA and ICE headquarters officials, the May 2011 meeting of the HRT constituted a review of the 2009 Agreement and affirmed that there were no overarching or systemic issues of coordination or deconfliction requiring headquarters-level intervention.

DEA and ICE headquarters officials told us that during the first year of the 2009 Agreement they conducted ongoing monitoring through agency management and supervisory activities, as well as through other oversight mechanisms (e.g., e-mails and phone calls) to identify any systemic implementation issues. Such ongoing monitoring is consistent with internal control standards, which call for ongoing monitoring to occur in the course of normal operations (i.e., regular management and supervisory activities).

Specifically, DEA headquarters officials told us that they had continuously monitored the implementation of the 2009 Agreement during the first year of implementation because they found this approach to be advantageous. To ensure that the 2009 Agreement was being properly implemented, monitoring was conducted at various levels of DEA. According to DEA headquarters officials, the DEA Administrator and ICE’s Assistant Secretary met regularly, as did the DEA and ICE Deputy Chiefs of Operations.³⁸ DEA headquarters routinely coordinated with field offices,

³⁸According to ICE, there is no set meeting schedule for the DEA Administrator and the ICE Assistant Secretary to discuss the 2009 Agreement and/or Title 21 matters. However, the DEA Administrator and ICE Assistant Secretary remain constantly engaged in ensuring that any 2009 Agreement and Title 21 matters are resolved at the lowest possible level to allow the joint efforts of the two agencies to continue uninhibited.

as well as ICE headquarters, to ascertain how the Agreement was working in the field. DEA's Deputy Operations Chief spoke with the SACs on a regular basis to help monitor implementation of the Agreement. Similarly, ICE's Deputy Director said that monitoring activities occurred both internal to ICE and in conjunction with DEA. For instance, both ICE headquarters and field management said that they discussed the implementation of the 2009 Agreement with their DEA counterparts and the DEA and ICE Title 21 ASACs held regular meetings. Additionally, ICE headquarters' Narcotics and Contraband Smuggling Unit established a Title 21 e-mail box to solicit feedback from the field offices on the implementation of the 2009 Agreement, but as of June 2011, the Unit Chief said that he had not received any systemic complaints through this mechanism.

DEA and ICE field office management and first-line supervisors in the 16 offices said that the usual mechanism for providing feedback on field issues is through the supervisory chain of command—agent to Group Supervisor to ASAC to SAC. DEA and ICE first-line supervisors said that they usually resolved issues at the case agent, Group Supervisor, and ASAC levels, but infrequently elevated them to the SAC level because they were usually able to resolve them at the lower levels. In the 16 offices, supervisors said that they would use the chain of command to raise issues or provide feedback. For example, if their agents raised issues regarding the 2009 Agreement, they would provide this feedback to their appointed Title 21 Coordinator. Similarly, DEA and ICE ASACs reported using their chain of command to report any issues with the 2009 Agreement and Title 21 matters. Field management officials in the 8 ICE offices reported being asked by ICE headquarters whether they had any problems or issues regarding the implementation of the Agreement. In the 8 DEA offices, field management officials said that issues with the Agreement would be passed to DEA headquarters through the chain of command.

DEA and ICE headquarters officials said that, as of June 2011, the agencies had not identified any problems affecting the implementation of the 2009 Agreement which could not be addressed through the chain of command. With the exception of the issues leading to the modification of the procedures for updating the cross-designation list, previously discussed, DEA and ICE headquarters and field office officials interviewed reported that no issues affecting the implementation of the 2009 Agreement had been raised through its monitoring mechanisms. Additionally, they said that no issues had been raised that required the intervention of the HRT to resolve. DEA and ICE field management and first-line supervisors in all 16 of the offices we contacted reported that

they had provided no substantial feedback on concerns regarding the 2009 Agreement to their respective headquarters. Moreover, field management in 7 of the 8 DEA field offices and 5 of the 8 ICE field offices specifically stated that they had not forwarded any issues up the chain of command.³⁹

Our review substantiated two issues that were raised through the chain of command and were resolved without convening the HRT. The first, as previously discussed, was that DEA and ICE negotiated and agreed to modifications to the process for cross-designating ICE agents established under the 2009 Agreement. The second issue involved DEA field office concerns regarding what they believed to be an expansion of ICE's role in investigating drug-related bulk cash cases at international airports (e.g., following the cash on flights within the United States and beyond the border), which had been raised through the DEA chain of command. The DEA Deputy Operations Chief confirmed that he had received phone calls from DEA field offices regarding this matter, discussed the issue with his ICE counterpart, and identified the source of the confusion to be an ICE draft policy that several ICE field offices had implemented. After resolving the issue with ICE headquarters, he said that he contacted the DEA offices involved and provided the correct information. He said that DEA field management in the offices that had raised the issue then worked with their ICE counterparts to resolve the issue locally.

However, as previously discussed, DEA and ICE field management and first-line supervisors identified two issues that continued after the implementation of the Agreement and had not been resolved through existing mechanisms. First, management and first-line supervisors in three of the eight ICE field offices and first-line supervisors in a fourth office generally believed that DEA should notify ICE of DEA counternarcotics investigations that might overlap with an ICE investigation, such as those along the border, and investigations involving bulk cash. As previously discussed, DEA believed that the notification issue had been resolved during the negotiation of the Agreement and noted that ICE had not raised the issue at the HRT. ICE's Assistant Director for Operations confirmed that ICE did not raise the notification issue having concluded that such notification was not necessary so long as DEA agents use the local deconfliction centers and ICE agents

³⁹The remaining one DEA and three ICE offices did not mention sending forward any issues to either DEA or ICE headquarters.

continue to communicate with DEA locally. She said that the existing and newly established deconfliction mechanisms are sufficient to provide notification.

Second, management or first-line supervisors in four of eight DEA field offices said that ICE agents in their area continued to experience challenges regarding the determination of a nexus to the border.⁴⁰ DEA and ICE headquarters officials believed that the Agreement clearly defined what constituted a nexus to the border. Specifically, these DEA officials said that if ICE follows the language in the 2009 Agreement, there is no problem that could not be resolved in the field. ICE's Assistant Director for Operations said that the nexus issue (1) had not been elevated to her level within ICE and (2) DEA had not raised it at the HRT. This official explained that nexus issues associated with specific cases are resolved in the field.

In May 2011, subsequent to our interviews, ICE headquarters sent out an 11-question survey seeking input from ICE field office SACs as well as ICE Attachés, assigned to international offices, in an effort to measure the effectiveness of the Agreement. The survey questions addressed the four core areas of the Agreement: information sharing between ICE and DEA; ICE Title 21 authority; Title 21 deconfliction and operational coordination; and foreign investigations. Respondents were asked to answer the questions using a 5-point scale from strongly agree to strongly disagree and provide a brief statement and specific examples, if possible, if they responded disagreed or strongly disagreed.⁴¹ ICE's Deputy Director told us that such a survey could be helpful in determining how well the Agreement was working in field offices, especially before a meeting of the HRT.

According to ICE, the SACs surveyed generally reported that the 2009 Agreement had helped to define and streamline the cross-designation process, but the effect of the Agreement on deconfliction between DEA and ICE was negligible because local protocols existed prior to the implementation of the Agreement. Additionally, while all SACs reported that the Agreement had formalized the information-sharing process, some

⁴⁰These concerns were expressed by DEA field management in two offices, management and first-line supervisors in one office, and first-line supervisors in one office for a total of four DEA offices.

⁴¹The five points of the scale were: 1 – Strongly Agree; 2 – Agree; 3 – Neutral; 4 – Disagree; 5 – Strongly Disagree.

SACs expressed frustration over DEA not having to share information with ICE to the same extent as ICE was required to share information with DEA. That is, according to ICE's Assistant Director for Operations, the survey identified the same issue raised during our ICE field office interviews, as previously discussed—DEA providing notification to ICE of DEA counternarcotics investigations that might overlap with an ICE investigation, such as those along the border, and investigations involving bulk cash. However, according to ICE, the purpose of the Agreement was to delegate DEA's Title 21 enforcement authorities to ICE, which requires information sharing on ICE's behalf, not to address overall information sharing between DEA and ICE. Furthermore ICE's Assistant Director for Operations told us that ICE leadership did not believe that the issue was pervasive enough to change the provisions of the 2009 Agreement and ICE headquarters will communicate this position at its next leadership conference. Additionally, this official said that respondents did not raise any issues regarding the interpretation of the nexus to the border. Similarly, ICE managers we interviewed did not identify issues regarding the interpretation of the nexus, although our review identified DEA field office concerns about ICE's interpretation of the nexus in some cases.

In our March 2009 report, we recommended that the Attorney General and the Secretary of Homeland Security develop processes for periodically monitoring the implementation of the new MOU or other mechanism to be established between DEA and ICE, and make any needed adjustments.⁴² The 2009 Agreement provides for monitoring through the HRT, which is to periodically review the performance of the Agreement. The Agreement called for the HRT to review the performance of the Agreement after 1 year and then every 2 years, or at any time, upon a written request by either DEA or ICE. The reviews are to be the joint responsibility of the DEA Chief of Operations and ICE Director of Investigations, or their designees, and both DEA and ICE are to cooperate in resolving any issues and executing any necessary or appropriate modifications to the 2009 Agreement. Monitoring through the HRT is consistent with internal control standards, which state that separate evaluations of control, in addition to ongoing monitoring, can also be useful, but their scope and frequency should depend primarily on the assessment of risks and the effectiveness of ongoing monitoring procedures.

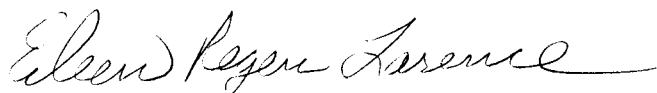
⁴²[GAO-09-63](#).

According to DEA and ICE headquarters officials, the HRT convened on May 31, 2011. ICE officials said that DEA and ICE met at that time because it was one of the first available dates the senior level officials from both agencies had sufficient time in their schedules to convene an HRT. Up to that time no deconfliction or coordination issues requiring the HRT to intervene had been raised. The HRT meeting affirmed that there were no overarching or systemic issues of coordination or deconfliction which would require headquarters-level resolution. DEA and ICE agreed to keep the lines of communication open between them to promptly resolve any systemic issues which could not be reconciled at the lowest possible level. Additionally, the HRT meeting also constituted a review of the 2009 Agreement. The participants agreed that future reviews would be conducted in accordance with the time line outlined in the Agreement. Accordingly, the next review is to occur in 2013, provided there are no requests from either agency to conduct a review in the interim.

Agency Comments and Our Evaluation

We requested comments on a draft of this report from DOJ and DHS. DOJ did not provide official written comments to include in our report. However, in an e-mail received on July 19, 2011, the DEA liaison stated that DEA appreciated the opportunity for review and comment on the draft report and DEA had no further comments. DEA provided written technical comments, which we incorporated as appropriate. We received written comments from DHS on the draft report, which are reproduced in full in appendix IV. DHS thanked GAO for the opportunity to review and comment on the draft report and stated its appreciation for GAO's work in planning and conducting its review and issuing the report. DHS further noted the report's positive acknowledgment that ICE and DEA have taken actions to enhance interagency collaboration in combating narcotics trafficking, and that these actions have, in part, helped maximize resources available to conduct counternarcotics investigations. Additionally, ICE provided written technical comments, which we incorporated as appropriate.

We are sending copies of this report to the Attorney General and Secretary of Homeland Security. The report is also available at no charge on GAO's Web site at <http://www.gao.gov>. If you or your staff have any questions concerning this report, please contact Eileen Larence at (202) 512-6510 or by e-mail at larencee@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix V.



Eileen R. Larence
Director, Homeland Security and Justice Issues

Appendix I: Objectives, Scope, and Methodology

Our overall objective was to assess the status of the implementation of the 2009 Interagency Cooperation Agreement (2009 Agreement) between the Drug Enforcement Administration (DEA) and Immigration and Customs Enforcement (ICE) on counternarcotics investigations. This report addresses the following questions:

1. To what extent have DEA and ICE taken actions in their respective domestic offices to implement the provisions of the 2009 Agreement addressing the cross-designation of ICE agents to pursue counternarcotics investigations, information sharing, and deconfliction of counternarcotics investigations?
2. To what extent have DEA and ICE taken actions to monitor the implementation of the 2009 Agreement in their respective domestic offices, and make needed adjustments?

To assess the extent to which DEA and ICE have taken actions to implement the cross-designation, information-sharing, and deconfliction provisions of the 2009 Agreement, we analyzed documentary and testimonial evidence from DEA and ICE officials responsible for negotiating and implementing the Agreement. Specifically, we analyzed the 2009 Agreement to determine how it establishes policies and procedures for cross-designating ICE agents to conduct counternarcotics investigations, provides for the sharing of information pertinent to counternarcotics investigations, and addresses deconfliction and coordination between DEA and ICE on counternarcotics investigations. As agreed with your offices, we did not analyze the international provisions of the 2009 Agreement because these provisions pose unique sensitivity and law enforcement issues depending on the country or region involved. We also compared and contrasted the provisions of the 2009 Agreement with the prior 1994 DEA and U.S. Customs Service interagency agreement to determine similarities and differences in their provisions and assess how the 2009 Agreement addresses the pertinent recommendations in our March 2009 report.¹ Additionally, we analyzed related interagency agreements (e.g., the August 2009 Agreement

¹GAO, *Drug Control: Better Coordination with the Department of Homeland Security and an Updated Accountability Framework Can Further Enhance DEA's Efforts to Meet Post 9/11 Responsibilities*, [GAO-09-63](#) (Washington, D.C.: March 2009).

between the Organized Crime Drug Enforcement Task Force (OCDETF)² and ICE) augmenting the provisions of the 2009 Agreement to determine the extent to which DEA and ICE are to coordinate and share information.³ Additionally, we interviewed DEA and ICE headquarters officials responsible for negotiating the 2009 Agreement to determine the priorities of each agency, issues on which the agencies differed, how officials negotiated and resolved these differences, and any remaining challenges.

Furthermore, we analyzed relevant DEA and ICE headquarters documentation used to disseminate information on the provisions in the 2009 Agreement to DEA and ICE field offices, including directives to field offices describing actions to be taken to implement the Agreement, guidance for developing and establishing local deconfliction protocols, and policies and procedures to implement the provisions for cross-designating ICE agents to conduct counternarcotics investigations. Additionally, we compared and contrasted the cross-designation, information-sharing, and deconfliction provisions of the Agreement with the actions taken by DEA and ICE to implement these provisions to determine the extent the agencies had implemented the Agreement in these three areas. Two GAO analysts independently reviewed the information on actions DEA and ICE took related to each provision to determine the extent to which they were addressed and compared their results. No differences occurred between these analysts' assessments. Specifically, we determined whether these actions were (1) fully implemented—met all provision requirements; (2) partially implemented—met some but not all provision requirements (i.e., actions were taken, but further actions were necessary to complete the implementation of the provisions); or (3) not implemented—had not implemented any of the provisions of the Agreement.

²Established in 1982 to conduct comprehensive, multilevel attacks on major drug trafficking and money laundering organizations, OCDETF combines the resources and expertise of its member federal agencies. These agencies include: DEA, ICE, FBI, among others in cooperation with DOJ's Criminal Division, the Tax Division, and the U.S. Attorney's Offices, as well as with state and local law enforcement.

³The August 2009 Memorandum of Understanding between the Organized Crime Drug Enforcement Task Force and U.S. Immigration and Customs Enforcement governs ICE participation in the OCDETF Fusion Center and sharing of information relative to the OCDETF program. The OCDETF Fusion Center collects and analyzes drug trafficking and related financial information and disseminates investigative leads.

In addition, to obtain a field perspective on the provisions of the 2009 Agreement and its implementation, we conducted telephone interviews in DEA and ICE field offices with two separate groups—(1) field management and (2) first-line supervisors in selected offices. Specifically, we interviewed

- Management-level officials, including the Special Agent in Charge (SAC) and Assistant Special Agents in Charge (ASAC), particularly those ASACs assigned by their respective DEA or ICE offices to serve as Title 21 coordinators, who are to ensure cooperation, communication, coordination, and deconfliction in Title 21 matters affecting their respective offices;⁴ and
- First-line supervisors, including Resident Agents in Charge (RAC) and Group Supervisors, who are responsible for supervising agents, have experience coordinating with their DEA or ICE counterparts on drug investigations, and are located in the areas covered by the protocol.

To make our selection of DEA and ICE offices, we analyzed the total 28 local deconfliction protocols, developed per the 2009 Agreement, to identify the corresponding DEA (21) and ICE (26) domestic field offices responsible for implementing each protocol. We selected 8 DEA and 8 ICE offices, responsible for implementing the same protocol. To make our selection we used the following criteria: geographic dispersion (e.g., northern border, southern border, and interior); the number and proportion of ICE agents cross-designated to conduct counternarcotics investigations; unique provisions in the local deconfliction protocols, which vary from the template DEA and ICE headquarters distributed to the field offices; metropolitan areas most often identified as originating and receiving drug shipments by the Department of Justice's 2010 National Drug Threat Assessment; and sites recommended by DEA or ICE headquarters officials to illustrate different enforcement situations that could affect implementation of the Agreement. The 8 corresponding offices we selected were: San Diego, California; Houston/San Antonio, Texas; Miami, Florida; Seattle, Washington; New York City/Buffalo, New York; Detroit, Michigan; Atlanta, Georgia; and St. Louis, Missouri/St. Paul, Minnesota.⁵ Table 4 shows the area covered by the eight protocols and

⁴Controlled substances laws are contained in Title 21 of the United States Code (Title 21 authority).

⁵Since DEA and ICE field offices do not directly correspond geographically, some of the field offices negotiated more than one deconfliction protocol. See app. II for list of all protocols and areas covered.

the corresponding DEA and ICE offices responsible for implementing each of these protocols.

Table 4: Geographic Coverage of the Local Deconfliction Protocols for the Associated 8 DEA and 8 ICE Offices Selected

Geographic coverage of protocol	DEA field office	ICE field office
San Diego/Imperial County, California	San Diego, California	San Diego, California
Houston/Galveston/San Antonio/Beaumont/Austin/Brownsville/McAllen/Laredo/Eagle Pass/Waco/Del Ray (South Texas)/Del Rio/Corpus Christi, Texas	Houston, Texas	Houston/San Antonio, Texas
Ohio/Michigan	Detroit, Michigan	Detroit, Michigan
Georgia/North Carolina/South Carolina/Tennessee	Atlanta, Georgia	Atlanta, Georgia
Washington/Oregon/Idaho/Alaska	Seattle, Washington	Seattle, Washington
Iowa/Nebraska/South Dakota	St. Louis, Missouri	St. Paul, Minnesota
Miami/Florida	Miami, Florida	Miami, Florida
New York State	New York City, New York	New York City/Buffalo, New York

Source: GAO analysis of DEA/ICE local deconfliction protocols.

During these interviews, we discussed the actions taken by the field offices to implement the 2009 Agreement; field perspectives on how the Agreement was working (e.g., the extent to which the Agreement addressed problems; if it did, how was this done; and, if not, any possible solutions); implementation of local deconfliction protocols (e.g., the extent to which they addressed problems; if they did, how was this done; and, if not, any possible solutions); benefits and challenges of the 2009 Agreement; and any remaining challenges and possible solutions. We analyzed the information obtained through the interviews and summarized the views of each group. For each field site, we compared and contrasted the perspectives of DEA and ICE interviewees to identify similarities and differences in their views. We compared and contrasted headquarters officials’ views as they relate to field officials’ views. We analyzed the actions taken using the 2009 Agreement. Additionally, we analyzed whether each agency’s measures for assessing performance support participation in interagency investigations. (See app. II.)

Furthermore, we asked officials in DEA and ICE field offices about their perceptions of any changes that had occurred due to implementation of the 2009 Agreement. However, we were not able to assess whether changes have actually occurred because there were no defined measures to demonstrate change and no quantitative data from the period prior to the Agreement against which to assess any changes even if measures had been identified.

Because we conducted group interviews and did not select the field offices randomly, our results are not generalizable to all DEA and ICE field offices nationwide.⁶ However, this information allowed us to provide perspectives about the implementation of the 2009 Agreement and illustrative examples of what is and is not working well.

To assess the extent to which DEA and ICE have taken actions to monitor the implementation of the 2009 Agreement in domestic offices and make any needed adjustments, we analyzed the 2009 Agreement to identify actions to be taken to monitor its implementation and any documentation, such as guidance or communications to the field from DEA and ICE headquarters describing how the implementation of the Agreement has been monitored and any mechanisms in place to obtain information on how the Agreement is working in the field. We compared and contrasted any actions taken to implement the monitoring of the Agreement with internal control standards in the federal government and the monitoring process described in the 2009 Agreement.⁷

In addition, we interviewed DEA and ICE headquarters officials to ascertain actions taken to monitor and obtain feedback from the field on the implementation of the 2009 Agreement and identify any adjustments made based on the results of the monitoring process. Also, in our interviews of DEA and ICE management officials and first-line supervisors in selected offices, we asked about any actions taken to monitor the implementation of the Agreement in their offices, as well as mechanisms available to the field to provide feedback to headquarters on how the 2009 Agreement is working. Information from the interviews is not generalizable to all DEA and ICE field offices nationwide, but provided illustrative examples of these efforts.

We conducted this performance audit from September 2010 through July 2011 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to

⁶We asked DEA and ICE to identify first-line supervisors from each of the states covered under the particular protocol. In each of the seven DEA offices we contacted, we interviewed three or more supervisors. In the remaining office we interviewed one supervisor from one state covered under that protocol and discussed issues in the second state covered under that protocol with the ASAC during the management-level interview. In each of seven ICE offices we contacted, we interviewed three or more supervisors; in the remaining office we interviewed two supervisors.

⁷GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Local Deconfliction Protocols, Deconfliction Mechanisms, Additional Factors Affecting Deconfliction, and Incentives for Joint Investigations

After the Acting DEA Administrator and Assistant Secretary for ICE signed the Interagency Agreement in June 2009, DEA and ICE headquarters directed their respective field offices to develop local deconfliction protocols to implement the Agreement. As a result, SACs covering the 21 DEA and 26 ICE field offices signed 28 protocols in 2010. Table 5 presents the area covered by each of the 28 protocols and the respective DEA and ICE office of the SAC who signed the protocol.

Table 5: Twenty-Eight Local Deconfliction Protocols and Associated DEA and ICE Offices

Geographic coverage of protocol	DEA field office	ICE field office
San Diego/Imperial County, California	San Diego, California	San Diego, California
Houston/Galveston/San Antonio/Beaumont/Austin/Brownsville, McAllen/Laredo/Eagle Pass/Waco/Del Ray (South Texas)/Del Rio/Corpus Christi, Texas	Houston, Texas	Houston/San Antonio, Texas
Ohio/Michigan	Detroit, Michigan	Detroit, Michigan
Georgia/North Carolina/South Carolina/Tennessee	Atlanta, Georgia	Atlanta, Georgia
Washington/Oregon/Idaho/Alaska	Seattle, Washington	Seattle, Washington
Iowa/Nebraska/South Dakota	St. Louis, Missouri	St. Paul, Minnesota
Miami/Florida	Miami, Florida	Miami, Florida
New York	New York City, New York	New York City/Buffalo, New York
Colorado/Montana/Utah/Wyoming	Denver, Colorado	Denver, Colorado
New England Field Offices	Boston, Massachusetts	Boston, Massachusetts
Eastern and Western Kentucky	Detroit, Michigan	Chicago, Illinois
Phoenix, Arizona	Phoenix, Arizona	Phoenix, Arizona
Minnesota/North Dakota	Chicago, Illinois	St. Paul, Minnesota
El Paso/Midland/Alpine, Texas /New Mexico	El Paso, Texas	El Paso, Texas
Central District of California (Los Angeles) and Southern Nevada (Las Vegas)	Los Angeles, California	Los Angeles, California
Northern Nevada (Reno)	Los Angeles, California	San Francisco, California
Dallas, Texas	Dallas, Texas	Dallas, Texas
Eastern and Northern Texas/Oklahoma	Dallas, Texas	Dallas, Texas
Hawaii/all Hawaiian Islands	Los Angeles, California	Honolulu, Hawaii
Pennsylvania/Delaware	Philadelphia, Pennsylvania	Philadelphia, Pennsylvania
Virginia/Maryland/West Virginia/District of Columbia	Washington, D.C. Division	Washington, D.C.; Baltimore, Maryland; Philadelphia, Pennsylvania
New Orleans, Louisiana	New Orleans, Louisiana	New Orleans, Louisiana
Puerto Rico/U.S. Virgin Islands	Caribbean	San Juan, Puerto Rico

**Appendix II: Local Deconfliction Protocols,
Deconfliction Mechanisms, Additional Factors
Affecting Deconfliction, and Incentives for
Joint Investigations**

Geographic coverage of protocol	DEA field office	ICE field office
Tampa/Jacksonville/Orlando, Florida	Miami, Florida	Tampa, Florida
New Jersey	Newark, New Jersey	Newark, New Jersey
Southern Illinois/Eastern and Western Missouri/Kansas	St. Louis, Missouri	Chicago, Illinois
Northern and Central Illinois/Northern and Southern Indiana/Eastern and Western Wisconsin	Chicago, Illinois	Chicago, Illinois
Northern California	San Francisco, California	San Francisco, California

Source: GAO analysis of DEA/ICE local deconfliction protocols.

Factors That Enhance Coordination and Deconfliction

DEA and ICE field office management and first-line supervisors also identified factors in addition to the mechanisms enumerated in the 2009 Agreement, which enhanced deconfliction between DEA and ICE in the field, under the 2009 Agreement. DEA and ICE field management and first-line supervisors interviewed generally believed that colocation of DEA and ICE agents in each others' offices or on strike forces and task forces enhanced coordination, deconfliction, and information sharing because colocation facilitated interaction between DEA and ICE agents and enabled them to obtain information from the other agency's data systems. For example, a colocated ICE agent could ask a DEA counterpart to check information through DEA's Analysis and Response Tracking System (DARTS) or a DEA agent could ask the ICE agent to check information in ICE's TECS system.¹ Agents on task forces may have direct access to other agencies' data systems. For example, an ICE agent on a DEA task force may have access to DARTS. DEA and ICE agents also continue to use personal contacts and relationships to deconflict in addition to or as an alternative when, for example, no HIDTA is located in the area.

According to ICE headquarters officials, ICE is also providing its agents access to additional tools to enable them to deconflict investigations with DEA. For example, the ICE headquarters Law Enforcement Support and

¹DARTS is DEA's internal deconfliction tool that assists investigators in identifying overlaps between cases through unique identifiers including, phone numbers, e-mail accounts, Web sites, financial accounts, and license plates. TECS was designed to provide controlled access to a large database of information about suspects and to interface with a number of other law enforcement systems. According to ICE headquarters officials, U.S. Customs and Border Protection owns the system and ICE is a user of the system.

Information Management unit deployed a Web-based deconfliction tool that allows ICE agents to deconflict ICE subject information with DEA subject information. Additionally, ICE is in the process of providing its agents with access to DEA's Internet Connectivity Endeavor (DICE). DICE is hosted on the internet for state, local, and other federal law enforcement personnel who do not have access to the DARTS application. ICE headquarters officials told us that ICE is taking actions to have DICE on line and operating well in all SAC offices by November 2011, including providing proper training to enable agents to use the system properly. Through DICE, ICE agents will have the same access to nationwide information on all crimes, as state, local, and other federal law enforcement personnel who do not have access to the DEA's DARTS application.

Incentives for Joint Investigations

The 2009 Agreement also encourages joint investigations. ICE headquarters officials said that the primary incentive for conducting joint investigations is the ability to harness and merge the capabilities of both agencies and maximize all information. DEA headquarters officials cited the necessity of working joint investigations as the primary incentive for encouraging agents to participate in these types of investigations.

DEA and ICE personnel at all levels reported that the following incentives are used to encourage joint investigations:

- Jointly working drug investigations, particularly for smaller offices, maximizes limited resources.
- Working joint investigations is essential to their job duties, as a matter of course, particularly for larger, busier offices.
- Similarly, some offices reported that they have a strike force environment, which requires agents to work joint investigations or are involved in task forces that provide opportunities for joint investigations. For example, agents from both DEA and ICE are encouraged to work Organized Crime Drug Enforcement Task Force (OCDETF) cases, which are major joint investigations that involve multiple agencies. DEA and ICE field officials cited the success of OCDETF investigations, as an incentive for agents to work joint OCDETF cases.
- We reviewed DEA and ICE performance standards and identified measures for encouraging joint investigations and ensuring the success of drug investigations. Specifically, DEA's performance elements included working relationships, which was defined as assisting others and building partnerships, including resolving past issues that may interfere with current or future partnerships, and working cooperatively with appropriate DEA groups and offices, other

DEA divisions, federal, state, local, and international agencies. One of ICE's core competencies is team work and cooperation, which encompassed (1) building effective partnerships that facilitate working across boundaries, groups, or organizations and (2) working constructively with others to reach mutually acceptable agreements to resolve conflicts.

- Drug seizure statistics as well as the overall complexity and success of the investigation undertaken are used to evaluate field offices and agents.

Appendix III: Training on the 2009 Agreement and Local Deconfliction Protocols

According to DEA and ICE officials, the agencies have each primarily used established processes to disseminate information about the 2009 Agreement. Additionally, the agencies incorporated information on the Agreement into existing agent training and manuals.

DEA and ICE Disseminated Information on the 2009 Agreement

After the signing of the 2009 Agreement, DEA and ICE headquarters disseminated information about the Agreement through their respective chains of command, communicated with field management about its provisions, and directed the SACs in corresponding DEA and ICE field offices to develop local deconfliction protocols to implement the Agreement, as previously discussed. DEA and ICE ASACs, RACs, and first-line supervisors in the 16 field offices we contacted confirmed that their respective SACs had conveyed the information about the 2009 Agreement and the local deconfliction protocols through the field chain of command. Specifically, DEA and ICE SACs reported discussing the Agreement with ASACs, RACS, and Group Supervisors through teleconferences, staff meetings, and management conferences. Field office management also reported disseminating guidance to first-line supervisors—RACs and Group Supervisors. DEA and ICE first-line supervisors we interviewed generally reported that after receiving information on the Agreement and local deconfliction protocols, they discussed the implementation of the Agreement and protocol with their respective groups of agents.

DEA and ICE Incorporated Information on the 2009 Agreement into Existing Agent Training and Manuals

We also reviewed the extent to which the agencies provided training on the Agreement and protocols. DEA and ICE headquarters officials said that the agencies did not provide specific training on the 2009 Agreement to the respective field management and agents, because the agencies determined that such training was not needed as the Agreement did not change agents' counternarcotics investigative duties or practices. However, according to these DEA officials, DEA agent basic training covered the topics addressed by the 2009 Agreement, such as defining the difference between a domestic and international conspiracy, which addresses the determination of a nexus to the border. Additionally, DEA updated its agent manual in September 2009. The manual stated that the DEA liaison with ICE was to be governed by the June 18, 2009, Agreement and incorporated a copy of the entire Agreement. As a result, a DEA headquarters Operations official believed that extra or special training for implementing the 2009 Agreement was not necessary because within DEA there was a clear understanding of the implementation of the 2009 Agreement. In particular, the Title 21 Coordinators, who were charged with managing the implementation of the

2009 Agreement at the field level, understood the Agreement and were expected to disseminate the information to their agents.

Similarly, ICE headquarters officials said that ICE agents needed no special training about the 2009 Agreement because it, along with the local deconfliction protocols, set out in writing what agents were already doing in the field (e.g., deconflicting investigations with DEA). An ICE headquarters Narcotics and Contraband Smuggling Unit official reported that the 2009 Agreement was introduced in basic training to the agents who receive training on drug investigations. He said that ICE headquarters had not provided any additional guidance or training to ICE field offices regarding the implementation of the 2009 Agreement or the local deconfliction protocols because counternarcotics is part of ICE's core mission and the 2009 Agreement did not change what ICE headquarters or field offices did to fulfill that mission.¹ Furthermore, according to this official, ICE plans to update its Drug Smuggling Handbook once the protocols for internationally controlled deliveries and adjustments to the cross-designation process are finalized, making all revisions at one time rather than multiple minor updates.

Additionally, DEA and ICE field management said that DEA and ICE agents did not need additional training because Group Supervisors were already deconflicting, had good relationships with their counterparts, were colocated, and served on joint task forces. Both DEA and ICE first-line supervisors also told us that senior agents explained the local deconfliction protocols to new agents in the office.

¹ICE headquarters officials noted that the only changes to practices under the 2009 Agreement were provisions requiring ICE to provide information to Special Operations Division, Fusion Center, and El Paso Intelligence Center, as previously discussed in the information-sharing section of this report.

Appendix IV: Department of Homeland Security Agency Comments

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

July 22, 2011

Eileen Larence
Director, Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: Draft Report GAO-11-763: "COMBATING ILLICIT DRUGS: DEA and ICE
Interagency Agreement Has Helped to Ensure Better Coordination of Drug
Investigations"

Dear Ms. Larence:

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the U.S. Government Accountability Office's work in planning and conducting its review and issuing this report.

The Department is pleased to note the report's positive acknowledgement that U.S. Immigration and Customs Enforcement (ICE) and the Drug Enforcement Administration (DEA) have taken action to enhance interagency collaboration in combating narcotics trafficking. The report also recognizes that these actions have, in part, helped maximize resources available to conduct counternarcotics investigations.

Although the report does not contain any recommendations directed at DHS, the Department remains committed to continuing its work with DEA and other interagency partners to combat the availability of illicit drugs in the United States and elsewhere, as appropriate. For example, during the past three fiscal years, ICE Homeland Security Investigations agents have devoted more hours to narcotics smuggling investigations than any other investigative activity.

Again, thank you for the opportunity to review and comment on this draft report. Technical and sensitivity comments have been provided under separate cover. We look forward to working with you on future Homeland Security issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim H. Crumacker".

Tim H. Crumacker
Director

Departmental GAO/OIG Liaison Office

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

Eileen R. Larence, (202) 512-6510

Acknowledgments

In addition to the contact name above, Leyla Kazaz and Mary Catherine Hult managed this assignment. Robin D. Nye and Barbara A. Stolz made significant contributions to the work. Willie Commons provided significant legal support and analysis. David P. Alexander assisted with design and methodology. Lara R. Miklozek and Debra B. Sebastian provided assistance in report preparation. Tina Cheng developed the report graphics.

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